

LFC Requester:	Sanchez, Scott
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AGENCY BILL ANALYSIS - 2026 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: 2/5/26 *Check all that apply:*
Bill Number: SB 100sub/a Original Correction
 Amendment Substitute

Sponsor: Sen. Cindy Nava **Agency Name and Code:** AOC
Short Title: Burglary Definition of Dwelling **Number:** 218
Person Writing: Kathleen Sabo
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
None	None	Rec.	General

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: The Senate Floor Amendment to the Substitute for SB 100 amends statutory sections within the Criminal Code pertaining to burglary, as follows:

- **Sections 30-16-3 and 30-16-4 NMSA 1978** (governing burglary and aggravated burglary, respectively): amends the statutes to clarify that the definition of “structure” “means”, rather than “includes” a protected space enclosed to the degree that it is capable of confining people or property and creates the expectation of privacy against an unauthorized intrusion. The amendment provides that the boundaries of a structure may extend to a partially enclosed construction attached to and constituting an extension of a dwelling, in a location that creates the expectation of privacy and in such a manner that a reasonable person would expect protection from an unauthorized intrusion.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions and appeals from convictions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

Creating a definition of “structure”, as used in Sections 30-16-3 and 30-16-4 NMSA 1978, may serve to allow for more structures to be considered dwellings, capable of being entered without authority and with intent to commit any felony or theft therein. This may result in more judicial resources being used on burglary cases.

SIGNIFICANT ISSUES

1) The changing of the term clarifying that the definition of “structure” “means”, rather than “includes”, will confine the definition of structure to that which appears in Sections 30-16-3 and 30-16-4 NMSA 1978 and not allow for any structure that is outside of the SB 100sub/a definition to be considered a structure.

2) In the original SB 100, the term “dwelling” was defined within the burglary and aggravated burglary statutes as “a personal space with some sort of enclosure that creates the expectation of privacy in such a manner that a reasonable person would expect protection from an unauthorized intrusion”, leading to case-by-case determinations based on a structure’s physical characteristics and its use, and potentially increasing the likelihood of litigation over what constitutes sufficient enclosure or privacy interest.

In [*State v. Jones*](#), 2025-NMSC-049, the court noted that there was an absence of a statutory definition for a “dwelling” , and “concluded that an unenclosed residential portal did not qualify as a ‘dwelling or other structure’ emphasizing the lack of complete physical enclosure.” See [*FIR*](#), SB 100, January 27, 2026.

The definition of “structure” in the SJC Substitute for SB 100, as well as language explaining that “the boundaries of a structure may extend to a partially enclosed construction attached to and constituting an extension of a dwelling, in a location that creates the expectation of privacy and in such a manner that a reasonable person would expect protection from an unauthorized intrusion”, would potentially allow for a partially enclosed construction to be considered a dwelling for the purpose of applying Section 30-16-3 and 30-16-4 NMSA 1978 to a potential burglary situation, leading a court to evaluate a porch, a portal, a carport, a tent or other spaces that do not fit neatly within traditional residential definitions as capable of being burgled. There may still be an interpretation needed to determine whether a reasonable person would expect protection from an unauthorized intrusion, leading to a case-by-case determination based on a structure’s physical characteristics and its use, still leading to variability in interpretation across judicial districts.

3) Creating an expanded definition of “structure”, as used in Sections 30-16-3 and 30-16-4 NMSA 1978, may serve to allow for more structures to be considered dwellings, capable of being entered without authority and with intent to commit any felony or theft therein. This may result in more judicial resources being used on burglary cases.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS