

LFC Requester:	
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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: 2/05/2026 *Check all that apply:*
Bill Number: SB 100 Original Correction
 Amendment Substitute

Sponsor:	<u>Cindy Nava and Linda M. Trujillo</u>	Agency Name and Code Number:	<u>Administrative Office of the District Attorneys 264</u>
Short Title:	<u>Burglary Definition of a Structure</u>	Person Writing	<u>Troy J. Davis</u>
		Phone:	<u>505-385-8461</u> Email <u>Davistr@msn.com</u>

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(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						

(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: Amendment to SB 100 changes some minor words that does not affect Bill. Substitute to Senate Bill 100 adds the definition of “structure”. Structure 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 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. Original SB 100 redefined dwelling.

FISCAL IMPLICATIONS

SIGNIFICANT ISSUES

Substitution of SB 100 This bill seeks to bring the definition of “structure” to solve is issue with current case authority in New Mexico. In *State v. Shelby*, 2021-NMCA-064, 499 P.3d 671, the Court of Appeals considered a challenge to a burglary of a dwelling conviction in which the defendant claimed the conviction was not supported by sufficient evidence “because the interior of the house at issue was under construction, it lacked electricity and running water, and the evidence did not show that the owner ‘customarily used’ the house “as living quarters” as required by the jury instruction[.]” Id.

The Court noted that “[t]here is no New Mexico case law addressing what factors or considerations the language defining ‘dwelling house’ might entail. Indeed, based on our own review, this definition does not appear in any of our statutes or in the law of other jurisdictions outside of its use in *UJI 14-1631*.” Id. ¶ 7. As such, the Court did not attempt to “circumscribe all the considerations” that could make a structure a dwelling and only determined whether the facts in this case sufficed. Id. Relying on *State v. Office of Pub. Def. ex rel. Muqqddin*, 2012-NMSC029, 285 P.3d 622 (in which the Supreme Court did an extensive and thorough analysis of the burglary statute and focusing on the right to privacy), the Court held that “in order to benefit from the highest burglary protections, there must be an unauthorized entry into a structure that is a dwelling house, physically defined by an enclosed space, and in which there are the heightened privacy and possessory interests of habitation.” Id. ¶ 8. Under this analysis, the Court held that the structure was a dwelling house and affirmed the defendant’s conviction.

The definition in the bill would possibly encompass more structures than under the current iteration of the statute.

AODA supports the change

PERFORMANCE IMPLICATION

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

None

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The burglary statute will continue to be inadequate for individual from going into a persons backyard and steal from a porch or non-enclosed area.