



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

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Senate Bill 227(SB-227) adds a section to the Criminal Code establishing a public registry for every person 18 years of age or older who is convicted of cruelty to animals and extreme cruelty to animals.

#### **FISCAL IMPLICATIONS**

Recurring hosting cost: \$10,000 per year beginning in FY2027 and continuing thereafter to host the public web portal.

No funds are currently appropriated for this bill; the Department of Public Safety (DPS) will require a recurring appropriation or other funding sources to cover the annual hosting expenses.

#### **SIGNIFICANT ISSUES**

##### Public Access and Transparency

The registry increases public visibility into animal cruelty convictions, supporting public safety and animal welfare goals.

The lack of specificity in SB-227 raises numerous constitutional concerns. Article II, Section 18 of the New Mexico Constitution provides broad due-process protections. New Mexico courts have repeatedly recognized that reputational harm, along with statutory consequences, are sufficient to trigger due-process scrutiny. Key principles include: liberty interests; stigma combined with legal consequences require procedural safeguards; and automatic statutory consequences tied to convictions receive close review. *See generally* Blea v. City of Española, 1994-NMSC-008; State v. Herrera, 1994-NMSC-009. A public registry can affect employment, housing, public stigma, and increase the risk of litigation. Errors in a public registry expose the state to Article II, § 18 due-process claims, tort claims, and injunctions requiring the registry's shutdown. SB227 lacks specificity in several critical areas.

Also, under Article II, Sections 18 and 10 of the New Mexico Constitution, there are privacy protections. New Mexico courts recognize heightened privacy protections under the state's due process and search-and-seizure provisions of the state constitution. Publishing excessive personal data, such as name and photo, as included in SB227, increases constitutional risk. Excluding the photo would reduce litigation risk and may help overcome due-process challenges based on privacy concerns.

Concerns also arise under Article II, Section 19 of the New Mexico Constitution. Ex Post Facto concerns arise when applied retroactively, thereby elevating litigation risks. Similarly, Article II, Section 13 of the New Mexico Constitution concerns proportionality and cruel punishment. A one-size-fits-all registry may be challenged as excessive, disproportionate, and arbitrary in relation to culpability. *See generally* State v. Frawley, 2007-NMSC-057 (confirms New Mexico's broader proportionality analysis); State v. Ira, 2002-NMSC-037 (requires punishment to be meaningfully related to offense severity). SB227 must include specificity in key areas to ensure to overcome constitutional challenges.

The bill lacks clarity on:

- Duration of Listing
- Removal criteria
- Treatment of past convictions
- Procedures for correcting inaccurate information

These gaps may expose the state to legal challenges or require future statutory amendments.

### Operational Burden

Local agencies will face new responsibilities for:

- Timely data submission
- Verification of conviction details
- Responding to public inquiries

## **PERFORMANCE IMPLICATIONS**

DPS must develop new policies, interagency agreements, and data-sharing protocols.

Performance metrics tracking:

Timeliness of data submission

Accuracy of posted records

Public usage of the registry

## **ADMINISTRATIVE IMPLICATIONS**

Implementation tasks: policy development, interagency agreements, data sharing protocols, and standard operating procedures for record submission, verification, and correction.

Staffing and training: DPS and local law enforcement will need training on submission processes, privacy safeguards, and handling public inquiries or correction requests.

Records management: Procedures for retention, expungement, or sealing of records must be established to align with existing statutes and court orders.

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

There is no conflict, duplication, companionship, or relationship for DPS.

## **TECHNICAL ISSUES**

Data integration: The portal will likely require interfaces with court and law enforcement case management systems; technical specifications and standards will be needed.

Security and compliance: The system must protect against unauthorized access, ensure secure transmission of records, and comply with applicable state and federal data protection requirements.

User functionality: Considerations include search filters, redaction capabilities, audit logging, and an administrative interface for record management.

### **OTHER SUBSTANTIVE ISSUES**

Scope and duration: The bill should clarify whether convictions prior to enactment are included and whether entries are time-limited or permanent.

Appeals and post-conviction relief: Processes for removing or updating registry entries following successful appeals, pardons, or expungements must be defined.

### **ALTERNATIVES**

No alternative issues to DPS.

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

Status quo will remain.

### **AMENDMENTS**

No amendments at this time.