

LFC Requester: _____

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

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 January 16, 2024

Bill No: HB 69-280

Sponsor: Mark Duncan and Harlan
Vincent
Short Title: Crime of Organized Residential
Theft

Agency Name and Code LOPD-280
Number: _____
Person Writing: Allison Jaramillo
Phone: 505-395-2890 **Email** allison.jaramillo@lopdm.us

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	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: HB 69 proposes to create a new crime in the criminal code called Organized Residential Theft. Section A defines the crime as “acting in concert with one or more persons for the purpose of stealing personal property from more than one residence or from a single residence on two or more occasions.”

Section B (1-3) describes punishment. The punishment ranges from a fourth-degree felony when the value is between \$500-\$2,500 within a 365-day period, third-degree felony when the value is between \$2,500-\$20,000 within a 265-day period, and a second degree felony when the value is over \$20,000 within a 365-day period.

Section C provides that a person charged with this crime shall not be charged with a separate or additional offense arising from the same action or occurrence.

Section D (1-2) includes definitions: Personal property includes mail and packages, and residence includes the curtilage of a dwelling or shared spaces in a multifamily dwelling.

FISCAL IMPLICATIONS

While the Law Offices of the Public Defender could likely absorb an increase in cases due to the passage of this bill, any increase in LOPD expenditures brought about because of the passage of this bill and other proposed criminal legislation would likely require an increase in indigent defense funding to adequately represent individuals charged with this and the other prospective crimes.

An entry-level Assistant Trial Attorney’s mid-point salary including benefits is \$87,570.72 in Albuquerque/Santa Fe and \$93,665.12 in the outlying areas (due to salary differential required to maintain qualified employees). A mid-level felony capable Associate Trial Attorney’s mid-point salary including benefits is \$136,321.97 in Albuquerque/Santa Fe and \$144,811.26 in the outlying areas. A senior-level Trial attorney’s mid-point salary including benefits is \$149,063.16 in Albuquerque/Santa Fe and \$157,552.44 in the outlying areas. Recurring statewide operational costs per attorney would be \$12,780.00 with start-up costs of \$5,210.00; additionally, average support staff (secretarial, investigator and social worker) costs per attorney would total \$126,722.33.

Under the present statutory scheme, LOPD workload is so heavy in some offices that lawyers are at risk of having to move to withdraw from cases in order to meet their ethical responsibilities to provide competent representation to their existing clients. Barring some other way to reduce indigent defense workload, any increase in the number of felony prosecutions would bring a concomitant need for an increase in indigent defense funding in order to keep this problem from spreading. Of course accurate prediction of the fiscal impact would be impossible to speculate; assessment of the required resources would be necessary after the implementation of the proposed statutory scheme.

SIGNIFICANT ISSUES

It is unclear why this bill is necessary when “stealing personal property” from someone is already a crime. The conduct proscribed by this act could be considered larceny under NMSA 1978, Section 30-16-1 with the same exact punishment scheme. Further, if the amount qualifies, and under that theory that would make any conspiratorial conduct under this act also eligible for racketeering under NMSA 1978, Section 30-42-4. And to the extent that conduct is prosecuted under a conspiracy or accessory theory, that conduct would already be covered under NMSA 1978, Section 30-28-1 (accessory) and 30-28-2 (conspiracy).

Subsection C of the bill seems to enforce double jeopardy prohibitions by limiting the prosecution’s ability to charge an individual with any other crimes that arises out of the same transaction. This appears to distinguish this offense from Racketeering, which expressly authorizes such multiplicity.

PERFORMANCE IMPLICATIONS

To the extent HB 69 would increase criminal cases, a concomitant increase in resources for the courts, DAs and LOPD would be required.

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

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. As noted above, the conduct prohibited by this bill is already covered by other

criminal statutes.

AMENDMENTS