

**LFC Requester:****AUSTIN DAVIDSON****AGENCY BILL ANALYSIS  
2024 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:****Analysis.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  Amendment   
Correction  Substitute Date 19JAN2024Bill No: SJR 11Sponsor: Ron Griggs, Greg Nibert  
Short Title: Requirements for denial of bail, CA.Agency Name  
and Code  
Number:790 - Department of Public Safety

Person Writing

KELLY MILLERPhone: 505 365-3261Email kelly.miller@dps.nm.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
NFI	NFI	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
NFI	NFI	NFI	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	NFI	NFI	NFI	N/A	N/A	N/A

(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**

If this resolution passes, an amendment would be submitted to the people during the next general election, or any special election called for the matter for their approval or rejection. SJR proposes to submit to the voting public an amendment to the Constitution of New Mexico regarding bail and pretrial detention defendants charged with a crime. The proposed amendment would apply to all defendants regardless of the type of crime and would keep in place the requirement that the prosecutor request a hearing for the court to determine whether to deny bail. In order to denial bail during the hearing, the prosecutor must present evidence that the defendant is a danger and that release conditions would not protect the community. The evidentiary standard would remain the same, the court’s decision would be based on clear and convincing evidence.

**FISCAL IMPLICATIONS**

No fiscal implications to DPS.

**SIGNIFICANT ISSUES**

Presently, pretrial detention motions are adjudicated in courts of record before lawyer-judges. SJR 11 would extend that to New Mexico’s Magistrate Courts, where there is no record of proceedings, and the judges are not statutorily required to be a licensed attorney. The combined effects of these two factors create an inapt adjudicatory environment for pretrial detention. Placing this critically important matter in the Magistrate Court context could increase legal error and, correspondingly, litigation and appeals. Because criminal defendants would be entitled to appeal the Magistrate Court Judge’s order detaining them, due to the lack of a record of proceedings, most of these matters would likely be appealed to the District Court, duplicating the work and resources on all levels of the judicial system.

**PERFORMANCE IMPLICATIONS**

New Mexico’s existing pretrial release system has resulted in individuals being released and committing additional offenses while pending trial. This proposed amendment seeks to address some of the underlying factors that contribute to dangerous public safety outcomes.

**ADMINISTRATIVE IMPLICATIONS**

No administrative implications to DPS.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

No conflict, duplication, companionship or relationship to DPS.

**TECHNICAL ISSUES**

No technical issues to DPS.

**OTHER SUBSTANTIVE ISSUES**

**ALTERNATIVES**

Not applicable as no impact to DPS.

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

Status quo.

**AMENDMENTS**

None at this time.