

LFC Requester:

Felix Chavez

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 3/13/25

Check all that apply:

Bill Number: HJR 22

Original X

Correction

Amendment

Substitute

Sponsor: Reps. Nicole Chavez, Andrea Reeb, William A. Hall II

Agency Name and Code Number: 305 – New Mexico Department of Justice

Person Writing

Analysis: Adolfo Mendez

Short

Title: Denial of Bail, CA

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|------------------------------|------------------|
| FY25 | FY26 | | |
| | | | |
| | | | |

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------------|------------------|
| FY25 | FY26 | FY27 | | |
| | | | | |
| | | | | |

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY25 | FY26 | FY27 | 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

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator's request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

Article II, Section 13 of the New Mexico Constitution determines when defendants charged with, but not convicted of, offenses may be released on bail. Currently, a court of record may deny a defendant charged with a felony if the prosecution proves at a hearing by clear and convincing evidence “that no release conditions will reasonably protect the safety of any other person or the community.”

HJR 22 would amend Article II, Section 13 in several ways. First, it would break out the current language into four lettered subsections, and make minor stylistic changes (ex., substituting “person” for “defendant”). Second, it would provide that a court of record may deny release upon proof that “release conditions will not reasonably protect the safety of any other person or the community” rather than upon proof that “no release conditions” would do so. Third, HJR 22 would allow a court to presume, when a person is charged with a dangerous or violent felony offense as designated by law, that release conditions would not reasonably protect a person or the community. A person charged with such an offense would have the ability to rebut this presumption by a preponderance of the evidence.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

None.

SIGNIFICANT ISSUES

The amendment would create a presumption for felonies designated as “dangerous or violent” by law. Because the amendment does not specify how to designate felonies as “dangerous or violent,” it appears that the amendment would support various methods for arriving at such a designation. For example, the Legislature could expressly designate offenses as dangerous or violent for the purposes of release, or, absent legislative action, the courts could develop caselaw to outline the parameters for designating a felony as “dangerous or violent.”

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Related to and to an extent conflicting with HJR 14, HJR 9, HB 165, SB 196, and SJR 14, which would all modify the conditions under which a court could detain individuals charged with felonies before trial.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

HJR 22, if adopted, would require the courts to amend Rule 5-409 NMRA, which reflects the current language and standard of Article II, Section 13.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

None.

AMENDMENTS

None.