

LFC Requester:

Felix Chavez

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](https://agencyanalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto: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:** 14 March 2025*Check all that apply:***Bill Number:** HJR 22Original ☒ Correction ☐Amendment ☐ Substitute ☐**Agency Name****and Code**

NM Sentencing Commission -- 354

**Number:****Sponsor:** N. Chavez**Short** Denial of Bail, CA**Person Writing** Douglas Carver**Title:****Phone:** 505-239-8362 **Email** dhmcarter@unm.edu**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
<b>Total</b>						

(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:

HJR 9 amends Art. 2, Sec. 13 of the state constitution, the provision regarding bail, by adding that if a person is charged with a felony offense designated by law as a dangerous or violent felony offense, a court of record may presume that release conditions will not reasonably protect the safety of any other person or the community and deny bail unless the person charged rebuts the presumption by the 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.

#### **SIGNIFICANT ISSUES**

Article 2, Section 13 of the New Mexico Constitution was changed substantially in 2016. Every Legislative Session since there have been attempts to unwind those changes, sometimes through statute, sometimes through a new amendment to the state Constitution. HJR 22 is more limited in scope than many of the prior attempts to unwind the changes made in 2016. It creates a rebuttable presumption of dangerousness for a person charged with a felony “designated by law as a dangerous or violent felony offense.” The standard the defendant would have for proving that they are not dangerous is “preponderance of the evidence”, which is a relatively low standard (more likely than not).

An issue with the language in HJR 22 is that it is not always clear in New Mexico’s statutes what constitutes a dangerous or violent felony. There is a list of serious violent offenses in the statute on earned meritorious deductions (Section 33-22-34(L)(4) NMSA 1978), but that list has 14 crimes that always are serious violent offenses, and a further 15 offenses that may or may not be serious violent offenses, depending on the facts particular to the case; and certain statutes may indicate that they are considered violent, but there is no comprehensive list to which the language in HJR 22 would relate.

A number of reports have been published in recent years on pretrial release in the state. The New Mexico Statistical Analysis Center (NMSAC) released its report “Bail Reform: Motions for Pretrial Detention and their Outcomes” in August 2021 (available here: <http://isr.unm.edu/reports/2021/bail-reform-motions-for-pretrial-detention-and-their-outcomes.pdf>). The Center for Applied Research and Analysis (CARA) at the University of New Mexico published “The Public Safety Assessment, Preventive Detention, and Rebuttable Presumptions in Bernalillo County” in December 2021 (available here: <https://isr.unm.edu/reports/2021/the-public-safety-assessment-preventive-detention-and->

[rebuttable-presumptions-in-bernalillo-county.pdf](#)); CARA also published a Report in Brief for that report, available here: <https://isr.unm.edu/reports/2021/the-public-safety-assessment-preventive-detention,-and-rebuttable-presumptions-in-bernalillo-county-report-in-brief>).

In September 2022, NMSAC released its report “Impact of Bail Reform in Six New Mexico Counties” (available here: <http://isr.unm.edu/reports/2022/impact-of-bail-reform-in-six-new-mexico-counties.pdf>). The purpose of that study was to analyze the impact of bail reform. The report concluded:

Bail reform has successfully decreased the number of people held pretrial and has shortened pretrial detention time overall. The decrease in days detained overall is driven largely by a decrease in time spent detained among those who spend some of, but not the entire, pretrial period in jail. It has also successfully decreased the frequency with which bond is set, both for all cases set at any point during the life of the court case and during the pretrial period among new felony cases. When bonds are set, they are lower on average than they were pre-reform. Finally, days to disposition decreased with bail reform, indicating that pretrial court efficiency may be improving overall, though days to disposition were slightly longer for those detained for the entire pretrial period after the amendment was implemented. However, the reform has coincided with a small increase in new offenses pretrial, including violent new offenses. We also observed a slightly higher rate of failures to appear following the implementation of bail reform, though the vast majority of individuals successfully pass the pretrial period. This varied, though, by county. (p. 49)

In October 2024, CARA release two reports examining this issue for Bernalillo County, “Bernalillo County Second Judicial District Court Preventive Detention Motion Review” (available here: <https://isr.unm.edu/reports/2024/bernalillo-county-second-judicial-district-court-preventive-detention-motion-review.pdf>), and “Evaluating the Costs and Benefits of Pretrial Detention and Release in Bernalillo County” (available here: <https://isr.unm.edu/reports/2024/evaluating-the-costs-and-benefits-of-pretrial-detention-and-release-in-bernalillo-county.pdf>).

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

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

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

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

## **AMENDMENTS**