

LFC Requester:	
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO AgencyAnalysis.nmlegis.gov and email to 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: January 25, 2025 *Check all that apply:*
Bill Number: HB 102 Original Correction
 Amendment Substitute

Sponsor: Andrea Reeb **Agency Name and Code Number:** Administrative Office of the District Attorneys 264
Short Title: Vehicle Homicide as Serious Violent Offense **Person Writing:** Donald Gallegos
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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)

Lines 11-14	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

BILL SUMMARY

Synopsis:

SB 102 addresses the issue raised in *State v. Montano*, 2024-NMSC-019, for the Supreme Court held that the legislature did not include second-degree homicide by vehicle to be a serious violent offense that is subject to determination by a judge.

SB 102 will make Homicide or Great Bodily Harm by Vehicle one of the offenses that a judge may determine to be a Serious Violent Offense subjecting the person convicted of such to earning only 4 days maximum per month of credit towards their sentence.

SB 102, by deleting the language “third degree” will make all homicide or great bodily harm by vehicle convictions eligible for a judge to determine whether the crime is a serious violent offense.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.
 None

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

SIGNIFICANT ISSUES

Presently, only third-degree homicide by vehicle or great bodily harm by vehicle can be determined by a judge to be a serious violent offense. A third-degree homicide or great bodily harm by vehicle is when a person drives recklessly. A third-degree great bodily harm by vehicle is when a person is under the influence of intoxicating liquor or drug or driving recklessly.

This bill will enable all homicide by vehicle or great bodily harm by vehicle set forth in Section 66-8-101, NMSA 1978 to be eligible for a judge to determine whether it is a Serious Violent Offense and subject to the maximum 4 days per month earned meritorious credit.

In *State of New Mexico v. Montano*, 2024-NMSC-019, the New Mexico Supreme Court held that second-degree homicide by vehicle is not an offense that can be determined to be a serious violent offense for purposes of the Earned Meritorious Deductions Act (EMDA). The court held that the legislature had not made that determination and therefore a court could not go outside of the statute

and make that determination. This bill will accomplish what the Supreme Court stated in the opening paragraph of its opinion. “It is solely within the prerogative of the Legislature to classify DWI homicide as a serious violent offense through the legislative process.” *Montano*, ¶ 1.

Subsection A of Section 66-8-101: Homicide by vehicle is the killing of a human being in the unlawful operation of a motor vehicle.

Subsection B of Section 66-8-101: Great bodily harm by vehicle is the injuring of a human being, to the extent defined in Section 30-1-12 NMSA 1978 (definition of great bodily harm), in the unlawful operation of a motor vehicle.

Prosecutors will have the discretion whether to seek the determination and it could be used in plea negotiations.

Judges will have the discretion to make the determination or not.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

There may be an increase in sentencing hearings should the prosecution request the judge to make the determination that the offense is a Serious Violent Offense.

There may be an impact on prison space as more defendants may be earning less earned meritorious deductions.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo.

AMENDMENTS