

LFC Requester:

Scott Sanchez

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: January 23, 2025

Check all that apply:

Bill Number: HB 102

Original X Correction
Amendment Substitute

Sponsor: Rep. Andrea Reeb

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

Person Writing

Short Title: Violent Felonies for
Meritorious Deduction

Analysis: Bryan Nickerson

Phone: 505-537-7676

Email: legisfir@nmag.gov

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:

House Bill 102 would classify all homicide by vehicle or great bodily harm by vehicle as a serious violent offense for purposes of earned meritorious deductions. HB102 makes the following modification to the Earned Meritorious Deductions Act (“EMDA”) as outlined in Section 33-2-34 NMSA 1978: The penalty of “third degree” in relation to homicide by vehicle or great bodily harm by vehicle is deleted. This may be in response to *State v. Montano*, which is discussed in more detail below.

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

N/A

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A HB102 appears to remedy an issue which was raised recently by the New Mexico Supreme Court in *State v. Montano* 2024-NMSC-019, 557 P.3d 88. Of particular note are the following two paragraphs from *State v. Montano*:

“Before 2016, homicide by vehicle was a third-degree felony, whether committed by DWI or reckless driving, and the Legislature enumerated it as a discretionary serious violent offense in the EMDA. In 2016, the Legislature made DWI homicide and reckless driving homicide separate crimes. The Legislature also raised DWI homicide to a second-degree felony and left reckless driving homicide as a third-degree felony.” ¶23

“However, the Legislature made no changes to the EMDA. The result is that under the unambiguous plain language of the EMDA, the sentencing court may treat reckless driving homicide as a serious violent offense, meaning that the defendant can earn a maximum of four days per month of good time deduction. On the other hand, by its plain language, the EMDA classifies DWI homicide as a nonviolent offense, meaning that a defendant can earn a maximum of thirty days per month of good time deductions. The district court in this case ruled this result was “likely a mistake,” because DWI homicide is a more serious offense than reckless driving homicide.” ¶24

The Court goes on to say, “[t]he Legislature must determine whether it wants to designate a crime as a serious violent offense in the EMDA.” ¶28

Currently, DWI homicide, a second degree felony, cannot be classified as a serious violent offense. By simply making all homicide by vehicle or great bodily harm by vehicle a potential serious violent offense, HB102 would likely remedy this issue. However, homicide by vehicle or great bodily harm by vehicle will still be a discretionary serious violent offense, where a judge may classify it as such based upon the nature of the offense and the resulting harm.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo as outlined in *State v. Montano* 2024-NMSC-019, 557 P.3d 88.

AMENDMENTS

N/A