

LFC Requester:	Felix Chavez
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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: 01/29/2025 *Check all that apply:*
Bill Number: HB165 Original Correction
 Amendment Substitute

Sponsor: Nicole Chavez, Andrea Reeb & Art De La Cruz **Agency Name and Code Number:** 770-NMCD
Short Title: Pretrial Detention Presumption **Person Writing:** Anisa Griego-Quintana
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
0	0	N/A	N/A

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
0	0	0	N/A	N/A

(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	0	0	0	0	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

Synopsis: House Bill 165 would establish a presumption that the prosecution has proven that a defendant is dangerous, and no release conditions will reasonably protect the safety of any other person or the community. Allows for the presumption to be rebutted by defendant in an adversarial hearing.

In a hearing that is initiated by a prosecuting authority pursuant to Art. 2, Sec. 13 of the State Constitution,* a magistrate, metropolitan or district court shall do the following:

- first make a probable cause determination as provided by Supreme Court Rule;
- once probable cause has been determined, a pretrial hearing to deny bail for a defendant charged with committing a dangerous felony offense shall be held in district court and the prosecuting authority shall present relevant evidence demonstrating that the defendant (1) is a danger to any other person or to the community if released; and (2) no release conditions will reasonably protect any other person or the community.

The introduction of this evidence shall create a rebuttable presumption that the evidence is true and presume denial of bail is necessary. After hearing from both parties, the court shall determine whether the defendant has been successful in rebutting the presumption and, in so doing, shall consider relevant factors established by Supreme Court Rule.

For purposes of this section, the term “dangerous felony offense” is defined as established in various sections of the Criminal Code for the following crimes:

- 1) First degree murder
- 2) Second degree murder
- 3) Voluntary manslaughter
- 4) Third degree aggravated battery against a household member
- 5) First degree kidnapping
- 6) First and second degree criminal sexual penetration
- 7) Second and third degree criminal sexual contact of a minor
- 8) First and second degree robbery
- 9) Second degree aggravated arson
- 10) Shooting at a dwelling or occupied building
- 11) Shooting at or from a motor vehicle
- 12) Aggravated battery upon a peace officer
- 13) Assault with intent to commit a violent felony upon a peace officer
- 14) Aggravated assault upon a peace officer
- 15) Felony committed while defendant brandished or discharged a firearm

Any of the following offenses when the nature of the offense and the resulting harm are such that the court deems the crime to be a dangerous offense:

- 16) Involuntary manslaughter (30-2-3)
- 17) Fourth degree aggravated assault (30-2-3)
- 18) Third degree assault with intent to commit a violent felony (30-3-3)
- 19) Fourth degree aggravated assault against a household member (30-3-13)
- 20) Third degree assault against a household member with intent to commit a violent felony (30-3-14)
- 21) Third and fourth degree aggravated stalking (30-3A-3.1)
- 22) Second degree kidnapping (30-4-1)
- 23) Second degree abandonment of a child (30-6-1)
- 24) First, second and third degree abuse of a child (30-61)
- 25) Third degree dangerous use of explosives (30-7-5)
- 26) Third and fourth degree criminal sexual penetration (30-9-11)
- 27) Fourth degree criminal sexual contact of a minor (30-9-13)
- 28) Third degree robbery (30-16-2)
- 29) Third degree homicide by vehicle or great bodily harm by vehicle (66-8-101)
- 30) Battery upon a peace officer (30-22-24)

FISCAL IMPLICATIONS

This statute is about pretrial release, which isn't the focus of the Corrections Department. The proposed bill would primarily impact the judiciary and counties. The Corrections Department does hold a small number of defendants pre-trial, but generally, the individuals in our custody before trial are either already serving sentences (and therefore ineligible for pretrial release) or are individuals referred to us by the courts and county jails, who likely would not qualify for pretrial release. Implementation of the proposed changes is unlikely to have a fiscal impact on the department.

SIGNIFICANT ISSUES

None for the Corrections Department.

PERFORMANCE IMPLICATIONS

None for the Corrections Department.

ADMINISTRATIVE IMPLICATIONS

None for the Corrections Department.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None for the Corrections Department.

TECHNICAL ISSUES

None for the Corrections Department.

OTHER SUBSTANTIVE ISSUES

None for the Corrections Department.

ALTERNATIVES

None for the Corrections Department.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None proposed by the Corrections Department.