

LFC Requester:	Scott Sanchez
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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: February 24, 2025 *Check all that apply:*
Bill Number: HB 547 Original Correction
 Amendment Substitute

Sponsor: Rod Montoya/Andrea Reeb **Agency Name and Code Number:** Administrative Office of the District Attorneys 264
Short Title: Aggravating circumstances in serious violent felony offenses **Person Writing Phone:** Donald Gallegos 5757703120 **Email:** dgallegos@questalaw.

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

BILL SUMMARY

Synopsis:

HB 547 amends Section 31-18-15.1, NMSA 1978 as follows:

- Adds language providing that if a defendant is convicted of a serious violent offense, the sentencing judge may only consider aggravating circumstances when sentencing the person.

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

Serious violent offenses, for the purposes of sentencing, are defined in Section 33-2-34, NMSA 1978.

A person convicted of a serious violent offense is only eligible to receive 4 days per month of meritorious deductions.

The amendments to Section 31-18-15.1, NMSA 1978 as provided for in this bill, appear to make it so that sentencing judges cannot consider mitigating circumstances when a person is convicted of a serious violent felony. However, the use of the word “may” on page 2, line 1, is permissive. Therefore, criminal defense attorneys will certainly argue that the use of that language does not mean that a sentencing judge is prohibited from considering mitigating circumstances.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

Section 33-2-34, NMSA 1978 applies to the Department of Corrections and it is that agency's duty to grant or deny meritorious deductions based on the provisions of the statute.

In order to avoid possible issues on appeal, it may be better to change the word "may" on page 2, line 1, to "shall."

OTHER SUBSTANTIVE ISSUES

Section 33-2-34 A(1) states: "Meritorious deductions shall not (emphasis added) exceed the following amounts: (1) for a prisoner confined for committing a serious violent offense, up to a maximum of 4 days per month of time served;"

Once a person is convicted of a serious violent offense, they can only earn meritorious deductions based on Section 33-2-34A(1).

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo.

AMENDMENTS