

LFC Requester:

**AGENCY BILL ANALYSIS
2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.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}

Check all that apply:

Original **Amendment** _____
Correction _____ **Substitute** _____

Date Feb. 24, 2025

Bill No: HB 547-280

Sponsor: Rod Montoya; Andrea Reeb
Short Title: Basic Sentence in Violent Crimes

Agency Name and Code LOPD-280
Number: _____
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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 Expenditure 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 would amend NMSA 1978, Section 31-18-15.1, the statute authorizing judges to “aggravate” or “mitigate” basic sentences based on individualized circumstances in a particular case.

HB 547 would prohibit a judge from considering mitigating circumstances in sentencing a defendant for a “serious violent offense” as defined in the Earned Meritorious Deductions Act, NMSA 1978, § 33-2-34.

FISCAL IMPLICATIONS

Removing the possibility of mitigation would make some defendants more likely to go to trial, rather than accept a plea deal that leaves room for sentencing arguments after conviction. Although the bill does not technically “increase” penalties, it removes a crucial opportunity for sentence reduction. The bill is therefore likely to result in more trials, as more defendants will prefer to risk a trial than take a plea to the greater penalty. While the LOPD would likely be able to absorb some cases under the proposed law, any increase in the number of prosecutions brought about by the cumulative effect of this and all other proposed criminal legislation would bring a concomitant need for an increase in indigent defense funding to maintain compliance with constitutional mandates. Assessment would be necessary after the implementation of the proposed penalty scheme.

SIGNIFICANT ISSUES

Under current law, Section 31-18-15.1 gives rise to a fundamental constitutional right to present sentencing mitigation evidence. *Tomlinson v. State*, 1982-NMSC-074, ¶ 12, 98 N.M. 213 (holding that NMSA 1978, Section 31-18-15.1, by permitting mitigation, requires an opportunity to be heard at sentencing). Furthermore, the core principle of judicial discretion at sentencing is a recognition that no every case or defendant are cut from the same cloth.

Traditionally, the justice system in the United States permitted judges to examine the facts of the case in order to determine an appropriate sentence for a convicted offender. Mandatory minimum sentences have existed in our country since the late 1700s but have grown in popularity since the early 1950s. The United States initially passed mandatory minimum sentences in response to a growing drug epidemic and viewed them as a way to deter criminal activity by imposing

lengthy mandated prison sentences on offenders. Mandatory minimum sentencing laws statutorily require a judge to automatically impose a minimum prison sentence for offenders convicted of certain crimes. These sentencing laws limit judicial discretion in sentencing by not allowing for the evaluation of specific circumstances surrounding the crime or for the review of mitigating factors. The surge in mandated sentencing and lack of judicial discretion have had a significant impact on the increase of the prison population and resulted in increased spending. Mandatory minimum sentences result in extended incarceration of many low-level and nonviolent offenders who could be effectively sentenced to shorter periods of incarceration, saving taxpayers millions of dollars.

Maggie E. Harris, *The Cost of Mandatory Minimum Sentences*, 14 Fla. Coastal L. Rev. 419 (Spring, 2013).

Evidence of both pre-conduct causes for a defendant's behavior and post-conduct evidence of remorse should always play a role in sentencing decisions. While the bill does not prevent a court from considering such factors in deciding whether to suspend or defer a basic sentence in lieu of probation, mitigation uniquely allows a judge to reduce the sentence without holding the suspended term over their heads during a lengthy probation term, and mandatory prison sentences for first-degree felonies cannot be suspended or deferred; they can *only* be reduced by mitigation of the basic sentence. Taking this critical tool away from judges limits their core function of ensuring that sentences are just and proper.

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