

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 23, 2025 *Check all that apply:*
Bill Number: HB 547 Original Correction
Amendment Substitute

Sponsor: <u>Montoya/Reeb</u>	Agency Name and Code Number: <u>NM Sentencing Commission – 354</u>
Short Title: <u>Basic Sentence in Violent Crimes</u>	Person Writing: <u>Keri Thiel</u>
	Phone: <u>505-259-8763</u> Email: <u>kthiel@unm.edu</u>

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, regarding alteration of a basic sentence, to specify that a judge may only consider aggravating circumstances if a defendant has been convicted of a serious violent offense as defined in Section 33-2-34 NMSA 1978.

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

It is unclear from the construction of HB 547's proposed addition to Section 31-18-15.1 whether the bill precludes judges from considering mitigating circumstances when determining whether to alter the basic sentence for a serious violent offense. The change reads as follows, in relevant part:

“For a defendant convicted of a serious violent offense . . . the judge may only consider aggravating circumstances.”

The use of “may” rather than “shall” means that the change could be reasonably interpreted as giving permission for judges to choose to only consider the aggravating circumstances (and not the mitigating circumstances), rather than prohibiting judges from considering mitigating circumstances altogether. It is unclear whether that is the intention of the bill.

If HB 547 would prohibit judges from considering mitigating circumstances when a defendant is convicted of a serious violent offense, that may result in longer prison sentences and more people being incarcerated by the Corrections Department. The average per day cost to incarcerate someone in the state's prison system is \$155.63/day; this average includes private and public facilities.

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