

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB 153 amends Section 30-16-4 NMSA 1978 to remove “dwelling” from the offense of aggravated burglary. The bill enacts a new section, 30-16-4.1 NMSA 1978, to create the crime of home invasion. Home invasion is defined as the unlawful entry of a dwelling while an occupant is inside with the intent to commit a felony or theft within when the offender is armed with a deadly weapon, becomes armed after entering, or “commits any unlawful act, threat or menacing conduct that causes another person to reasonably believe that the person is in danger of receiving an immediate battery.” Home invasion would be a second degree felony.

The bill also makes conforming and clarifying changes to Section 30-16-4.

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

The changes in SB 153 functionally mean that a person can no longer be charged with aggravated burglary of a dwelling; instead – assuming all mens rea requirements are satisfied – they may be charged with burglary if the dwelling is unoccupied, or home invasion if the dwelling is occupied and the bad actor is either armed, becomes armed, or otherwise causes the occupant to fear immediate battery.

The new crime of home invasion maintains the same penalty that is currently in place for aggravated battery of a dwelling, but allows the elements of the offense to be met even if the bad actor is unarmed and does not commit a battery upon the occupant, so long as the occupant reasonably fears a battery.

This change would potentially increase the number of individuals who could be charged and convicted for the underlying course of conduct described in SB 153. For individuals whose highest charge was aggravated burglary and who were released from NM prisons in FY 2024, the median length of stay was 27 months, or 2.22 years. The average 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

Ambiguity: the phrase “the person” is used in the proposed Section 30-16-4.1(A) – page 2, line 11 – to refer to the bad actor, while it is subsequently used in Section 30-16-4.1(A)(3) – page 2, line 17 – to refer to another person (presumably the dwelling’s occupant, although that is also not specified).

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS