

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: 01/30/2025 *Check all that apply:*
Bill Number: SB196 Original Correction
 Amendment Substitute

Sponsor: Craig Brandt **Agency Name and Code Number:** 770-NMCD
Short Title: Rebuttable Presumption Against Release of Crim Def Pending Trial **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	N/A	Recurring	General

(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: Senate Bill 196 would amend the Criminal Code to establish that a rebuttable presumption arises that a criminal defendant cannot be safely released pending trial if (1) charged with and facing trial for a major felony offense (listed in the bill); or (2) while pending trial, sentencing, or on probation, or within five years of a prior major felony conviction, the defendant has committed a new major felony. Clarifies that the creation of the presumption does not change the prosecution's constitutional burden of proof, and establishes the court's duty to evaluate evidence that the burden has been met.

The rebuttable presumption created in the bill would apply to circumstances that arise under Art. 2, Sec. 13, of the Constitution, which provides that "bail may be denied by a court of record pending trial for a defendant charged with a felony if the prosecuting authority requests a hearing and proves by clear and convincing evidence that no release conditions will reasonably protect the safety of any other person or the community. An appeal from an order denying bail shall be given preference over all other matters."

The bill would establish a rebuttable presumption that the prosecution has satisfied its burden to prove by clear and convincing evidence that the defendant constitutes a danger if there is a probable cause to believe:

1. that the defendant committed any of the following felony offenses for which the defendant is currently charged:

- first degree murder (Sec. 30-2-1)
- first or second degree felony human trafficking of a child (Sec. 30-52-1)
- first degree felony child abuse (Sec. 30-6-1)
- sexual exploitation of a child constituting at least a second degree felony (Sec. 30-6A-3)
- a serious violent felony offense (Sec. 33-2-34 (L)(4)(a)-(n))
- a felony offense during which a firearm was brandished (Sec. 31-18-16) or discharged
- a felony offense during which great bodily harm was inflicted (Sec. 30-1-12) or that caused the death of a person

2. that the defendant committed a new felony offense that prompted the detention hearing:

- while pending trial or sentencing for an offense listed above
- while on probation, parole or any other post-conviction supervisions for such an offense
- within five years of conviction of such an offense.

Nothing in this section is deemed to shift the prosecution's burden of proof to the defendant that the defendant is likely to pose a threat to the safety of others if released pending trial and that no release conditions will reasonably protect the safety of any other person or the community. The burden of proof rests with the prosecuting authority.

Applicable to charges first filed against defendants on or after the effective date of the act.

FISCAL IMPLICATIONS

None for the Corrections Department.

SIGNIFICANT ISSUES

Pretrial release decisions are made by judges. SB196 primarily impacts the New Mexico Judiciary in proposing changes to how pretrial release decisions are made, and the Corrections Department's mission and operations would not be directly impacted. If and to the extent SB196 results in significant increases or decreases in pretrial detention, this would likely impact counties and jails.

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.