

<b>LFC Requester:</b>	<b>Scott Sanchez</b>
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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**  
[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto: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:** 30 JAN 2025 *Check all that apply:*  
**Bill Number:** SB196 Original  Correction   
 Amendment  Substitute

**Sponsor:** Craig W. Brandt **Agency Name and Code** 790 – Department of Public Safety  
**Short Title:** Rebuttable Presumption **Number:** \_\_\_\_\_  
**Title:** Against Release **Person Writing** Randy Larcher  
**Phone:** 575-386-7712 **Email:** Randyt.larcher@dps.nm.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
NFI	NFI	N/A	N/A

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
NFI	NFI	NFI	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
<b>Total</b>	NFI	NFI	NFI	NFI	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act: Related to 2025 HB165; identical to 2024 SB122; almost identical to 2023 SB123; related to 2024 HB44, 2023 HB509

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

This bill amends the Criminal Code to establish that a rebuttable presumption arises when 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.

#### **FISCAL IMPLICATIONS**

None to DPS.

#### **SIGNIFICANT ISSUES**

None.

#### **PERFORMANCE IMPLICATIONS**

DPS strongly supports this bill due to it proposing a crucial amendment to the Criminal Code by introducing a rebuttable presumption that criminal defendants charged with major felony offenses—or those with a history of committing major felonies—should not be safely released pending trial. This presumption aims to enhance public safety and ensure that individuals with a high likelihood of recidivism are appropriately detained until trial. The law targets defendants facing charges for significant crimes or those who, while on probation, pending sentencing, or within five years of a prior conviction, commit another major felony. It is important to note that this presumption does not alter the prosecution's constitutional burden of proving guilt but instead establishes a framework that encourages thorough judicial review of the facts. Courts will still be required to assess whether the evidence justifies detaining the defendant pending trial, ensuring that the law strikes a balance between public safety and the rights of the accused. This bill supports a more effective justice system by addressing repeat offenders and providing additional tools to protect communities. This bill mirrors the rebuttable presumption standard used by the federal court system.

#### **ADMINISTRATIVE IMPLICATIONS**

None.

#### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None.

#### **TECHNICAL ISSUES**

None.

#### **OTHER SUBSTANTIVE ISSUES**

None.

#### **ALTERNATIVES**

None.

#### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status Quo will remain.

#### **AMENDMENTS**

None.