

LFC Requester:	Sanchez, Scott
-----------------------	-----------------------

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: 2/11/25 *Check all that apply:*
Bill Number: SB 330 Original Correction
 Amendment Substitute

Sponsor: Sen. Nicholas A. Paul **Agency Name and Code** AOC
Short Title: Street Gang Activity Sentencing **Number:** 218
Title: _____ **Person Writing** Kathleen Sabo
Phone: 505-470-3214 **Email** aoccaj@nmcourts.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	Rec.	General

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
Unknown	Unknown	Unknown	Rec.	General

(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	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Related to SB 70 and SB 329, defining “criminal gang” and “criminal street gang,” respectively.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB 330 enacts a new statutory section within the Criminal Sentencing Act, Section 31-18-12 NMSA 1978 et. seq, to enhance the basic sentence for crimes committed in furtherance of criminal street gang activity.

SB 330 defines “criminal street gang” to mean

...an ongoing organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the felonies enumerated in Subsection B of this section, who associate under a common name or have an identifying sign or symbol and whose members individually or collectively engage in or have engaged in a pattern of criminal street gang activity. "Criminal street gang" does not include a fraternal organization, union, corporation, association or similar group or entity, unless organized for the primary purpose of engaging in criminal activity.

SB 330, Section 1(B) sets out the offenses for which the basic sentence of imprisonment shall be increased. The enhancement attaches when, in a hearing separate from a trial or guilty plea proceeding, it is proven beyond a reasonable doubt to a jury or judge that an enumerated felony was knowingly committed for the benefit of, at the direction of or in association with a criminal street gang with the intent to promote, further or assist in criminal conduct by gang members.

SB 330 defines “pattern of street gang activity” to mean “the commission of two or more of the felonies enumerated in Subsection B of this section; provided that the offenses occurred within three years of each other and were committed on separate occasions by two or more persons.”

The effective date of the Act is July 1, 2025.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions, hearings held to determine whether an enumerated felony offense was knowingly committed for the benefit of, at the direction of or in association with a criminal street gang with the intent to promote, further or assist in criminal conduct by gang members, for purposes of sentence enhancement, and appeals from convictions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

More severe penalties are likely to result in more defendants invoking their right to trials, as well as to jury trials. More trials and more jury trials will require additional judge time, courtroom staff time, courtroom availability and jury fees. Indigent offenders are entitled to public defender

services.

SIGNIFICANT ISSUES

- 1) SB 330 calls for a hearing separate from a trial or guilty plea proceeding to be held in order to litigate the question of whether a SB 330, Section 1(B) enumerated felony was knowingly committed for the benefit of, at the direction of or in association with a criminal street gang with the intent to promote, further or assist in criminal conduct by gang members, for the purpose of determining whether sentence enhancement is required.

These required hearings will claim judicial resources, both fiscal and administrative.

- 2) More severe penalties are likely to result in more defendants invoking their right to trials, as well as to jury trials. More trials and more jury trials will require additional judge time, courtroom staff time, courtroom availability and jury fees. Indigent offenders are entitled to public defender services.
- 3) 2025's SB 329 defines "criminal street gang" to mean "an ongoing group, club, organization or association of three or more persons that has as one of its primary purposes the commission of one or more of the criminal offenses described in the Criminal Code."

2025's SB 70 defines "criminal gang" to mean "three or more persons having a common identifying sign or symbol or an identifiable leadership and who continuously or regularly associate in the commission of criminal activities".

SB 330 defines "criminal street gang" to mean "an ongoing organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the felonies enumerated in Subsection B of this section, who associate under a common name or have an identifying sign or symbol and whose members individually or collectively engage in or have engaged in a pattern of criminal street gang activity. 'Criminal street gang' does not include a fraternal organization, union, corporation, association or similar group or entity, unless organized for the primary purpose of engaging in criminal activity."

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See "Fiscal Implications," above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Related to SB 70 and SB 329, defining "criminal gang" and "criminal street gang," respectively.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS