

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 12, 2025 *Check all that apply:*
Bill Number: SB 341 Original Correction
 Amendment Substitute

		Agency Name and Code		
Sponsor:	<u>Block (Jay)</u>	Number:	<u>NM Sentencing Commission – 354</u>	
Short Title:	<u>Death Penalty for Certain 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:

SB 341 proposes to enact a new section of Chapter 31, Article 20A NMSA 1978, reinstating the death penalty if any of the following circumstances apply:

1. When a person is convicted of causing the death of a child by abandonment or abuse if the neglect or abuse was willful and intentional;
2. When a person is convicted of causing the death of a child while committing a felony pursuant to the Controlled Substances Act; and
3. When a person is convicted of causing the death of a law enforcement officer while committing a felony, or is convicted “for any related acts” leading to the death of a law enforcement officer.

SB 341 allows for the lesser sentence of life imprisonment without the possibility of parole if mitigating circumstances exist. The bill requires that the defendant establish mitigating circumstances by a preponderance of the evidence.

SB 341 also specifies that a person charged with the death penalty under this section shall be afforded due process, that a separate hearing shall be held to apply the death penalty, and that a jury must be unanimous to sentence a person to death.

Finally, SB 341 gives the New Mexico Supreme Court jurisdiction over the appeal of any conviction in which the death penalty has been applied.

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 death penalty was abolished in New Mexico in 2009. Bringing back the death penalty piecemeal presents proportionality problems within the state’s felony sentencing structure – the listed offenses would be eligible for the death penalty, while others resulting in death would not (including capital felonies and those with aggravating circumstances under Section 31-20A-2 NMSA 1978).

SB 341 allows for the application of a lesser sentence of life imprisonment without the possibility of parole if mitigating circumstances apply, although it does not provide a list or description of mitigating circumstances. However, if a sentence of life imprisonment without the possibility of parole is applied to the listed offenses, it would considerably lengthen the prison

stay for those offenses. It is difficult to determine what the effect of this would be on the state's prison population, but it would almost certainly lead to 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.

SB 341 does list aggravating circumstances. However, it is unclear if the aggravating circumstances must be present for the death penalty to apply. The bill presents the aggravating circumstances as "warranting the death penalty", but also states that the death penalty "shall" apply to the convictions listed in the bill, without mention of a requirement that aggravating circumstances be present. It is unclear if the aggravating circumstances are intended to apply the death penalty to offenses not explicitly listed in the bill; if so, this would present a conflict with Sections 31-20A-5 and 31-20A-2 NMSA 1978, which, respectively, (1) provide a list of aggravating circumstances, and (2) require that the defendant be sentenced to life imprisonment without the possibility of parole if those circumstances exist.

SB 341 applies the death penalty in cases where a person is convicted "for any related acts that led to the death of the law enforcement officer". "[F]or any related acts" is likely void for vagueness under the New Mexico and United States Constitutions. It is unclear what conduct the bill intends to include as eligible for the death penalty. The term "any related acts" could be reasonably interpreted to include a wide variety of convictions for conduct that more-or-less proximately led to the death of the law enforcement officer, including non-homicide charges.

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