

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 280 amends Section 31-18-23 NMSA 1978, the state's three strikes law, to eliminate the possibility of parole for sentences of life imprisonment imposed pursuant to that law, except in cases of geriatric or medical parole.

The bill further amends Section 31-18-23 to add exceptions to the rule that violent felony convictions incurred by a defendant before the defendant turns eighteen do not count as violent felony convictions for the purposes of the three strikes law. The exceptions added by HB 280 apply when the defendant was sentenced as an adult, whether in New Mexico or another state.

HB 280 also amends Section 31-18-23 to add twelve offenses to the definition of "violent felony" as used in the Criminal Sentencing Act and for the purposes of the three strikes law. These offenses are as follows:

- Voluntary manslaughter;
- Involuntary manslaughter;
- Aggravated battery;
- Shooting at a dwelling or occupied building resulting in great bodily harm;
- Aggravated battery against a household member;
- Abuse of a child that results in great bodily harm to the child;
- Negligent abuse of a child that results in the death of the child;
- Intentional abuse of a child that results in the death of the child;
- Aggravated arson;
- Aggravated battery upon a peace officer;
- Homicide by vehicle or great bodily harm by vehicle while under the influence, driving recklessly, or resisting, evading, or obstructing an officer; and
- Injury to a pregnant woman by vehicle while under the influence, driving recklessly, or resisting, evading, or obstructing an officer.

HB 280 also makes conforming changes to Section 31-21-10 NMSA 1978, regarding parole authority and procedure.

The bill also contains an applicability clause, applying the provisions of the bill to "persons who have been convicted on, before or after July 1, 2025 of one of the violent felonies described in Section 1 of this act for the purpose of determining sentencing enhancements pursuant to that section for subsequent violent felony convictions on or after July 1, 2025".

HB 280 contains an effective date of July 1, 2025.

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

HB 280 makes a number of changes to NM's three strikes law, including eliminating parole, adding exceptions for violent felony convictions incurred before a defendant turned 18 so long as the defendant was charged as an adult, and expanding the list of offenses that are considered violent felonies for the purpose of the three strikes law. All of these changes, individually and collectively, will likely 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.

The applicability clause included in HB 280 applies the provisions of the bill to persons who were convicted of violent felonies before July 1, 2025 (the effective date of the bill) for the purpose of determining sentencing enhancements for subsequent violent felonies. The retroactive inclusion of violent felony convictions that occurred before July 1, 2025, is possibly in violation of Article II, Section 19 of the Constitution of New Mexico. Article II, Section 19 prohibits ex post facto laws, which the New Mexico Court of Appeals has interpreted to apply to retroactive statutes that increase the punishment for a prior offense. See *Yepa v. N.M. Taxation & Revenue Dep't*, 2015-NMCA-099. The New Mexico Supreme Court has held that a statute is retroactive if it "affixes new disabilities to past transactions". See *Howell v. Heim*, 1994-NMSC-103. The changes in HB 280 would likely be retroactive, and may also be considered to increase the punishment for a prior offense, because they would apply to offenses committed before the bill would be enacted, and because they would "affix[] new disabilit[y]" to those offenses by making them count toward a sentence of life imprisonment under Section 31-18-23 NMSA 1978.

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