

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: 7 February 2025 *Check all that apply:*
Bill Number: HB 309 Original Correction
 Amendment Substitute

Sponsor: Sanchez **Agency Name and Code** NM Sentencing Commission -- 354
Short Title: Removing Unlawful Occupants from Property **Number:** _____
Person Writing Douglas Carver
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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:

HB 309 creates new process for eviction of people who are trespassing pursuant to Chapter 30, Article 14 NMSA 1978. The property owner or their agent may request that a law enforcement official remove someone unlawfully occupying property owned by the property owner. There are some qualifications limiting the circumstances where the owner may request those trespassing to be removed. HB 309 also puts in statute the complaint form to be used in these situations, and lays out the process under which notice is to be given to those illegally occupying the property. The bill notes, "Nothing in this section shall limit the rights of a property owner or limit the authority of a peace officer to arrest an unlawful occupant for trespassing, vandalism, theft or other crimes."

HB 309 also amends Section 30-15-1 NMSA 1978, regarding criminal damage to property, by increasing the penalty for damage over \$1,000 from a fourth degree felony to a second degree felony.

The final section of HB 309 creates a civil cause of action for a person removed pursuant to the provisions in the bill for ejectment to seek to restore possession of the real property at issue.

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 escalation of the penalty provided for in HB 309 in Section 30-15-1 NMSA 1978, regarding criminal damage to property, increasing the penalty for damage over \$1,000 from a fourth degree felony to a second degree felony, represents a tremendous jump in penalties for this statute. In present law, criminal damage to property under \$1,000 is only a petty misdemeanor. Additionally, second degree felonies are usually for the most serious crimes, involving harm to others and/or weapons, or far larger amounts of money (compare the larceny statute, Section 30-16-1, where larceny does not rise to a second degree felony until the value of the property stolen is over \$20,000, or the embezzlement statute, Section 30-16-8, where embezzlement does not rise to a second degree felony until the embezzled amount is over \$20,000).

It is difficult to determine what the effect of passing HB 309 would be on the state's prison population. 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.

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