

LFC Requester:	Felix Chavez
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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: 12 FEB 2025 *Check all that apply:*
Bill Number: HB 381 Original Correction
 Amendment Substitute

Sponsor: Stefani Lord & Willam Hall & JohnBlock **Agency Name and Code** 790 – Department of Public Safety
Short Title: Pretrial Detention Presumption **Number:** _____
Person Writing Emmanuel T. Gutierrez
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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
Total	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

SECTION III: NARRATIVE

BILL SUMMARY

House Bill 381 proposes changes to pretrial detention procedures. It establishes a presumption that a defendant is dangerous and poses a threat to the community if released, based on clear and convincing evidence. The prosecution must present evidence showing the defendant committed a dangerous felony, is a danger if released, and that no release conditions can protect others. The defendant can rebut this presumption in an adversarial hearing, where they must prove they are not a danger and that release conditions would ensure safety.

The bill defines “dangerous felony” with specific crimes such as murder, kidnapping, aggravated battery, robbery, and others, including certain violent offenses involving firearms or peace officers. The act is designated an emergency and is intended to take effect immediately for public safety.

FISCAL IMPLICATIONS

No fiscal implications to DPS.

SIGNIFICANT ISSUES

No significant issues with DPS.

PERFORMANCE IMPLICATIONS

No performance implications for DPS.

This bill is intended to fix the day-to-day implementation of the previous constitutional amendment pertaining to bail. As the law stands, the prosecution must prove by clear and convincing evidence that the defendant is likely to pose a threat to the safety of others if released pending trial and that no release conditions will reasonably protect the safety of any other person or the community. This bill provides that the prosecuting authority shall present all relevant evidence demonstrating that: (1) the defendant committed a dangerous felony offense; (2) the defendant is a danger to any other person or to the community if released; and (3) no release conditions will reasonably protect any other person or the community. According to this bill’s language, once that evidence is presented, it creates a rebuttable presumption that then shifts the burden to the defendant to prove that the defendant is not a danger to any other person or to the community and that release conditions exist that will reasonably protect any other person.

The presumption that the prosecution has proven the defendant’s danger to the community creates a stronger legal foundation for keeping dangerous individuals off the streets while they await trial. This presumption helps prioritize community safety over the risk of releasing individuals who could harm others or flee.

ADMINISTRATIVE IMPLICATIONS

No administrative implications to DPS.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with Rule 5-409 NMRA. If this amendment is enacted, this rule will need to be changed to comport with the new statutory language.

TECHNICAL ISSUES

No technical issues with DPS.

OTHER SUBSTANTIVE ISSUES

No other substantive issues to DPS.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo will remain.

AMENDMENTS

None.