

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: 30JAN2025 *Check all that apply:*
Bill Number: HRJ9 Original Correction
 Amendment Substitute

Sponsor: Rep. Alan T. Martinez **Agency Name and Code:** 790 – Department of Public Safety
Short Title: Denial of Bail, CA **Person Writing:** Matthew Broom, Deputy Chief
Title: Denial of Bail, CA **Phone:** 5757601485 **Email:** Matthew.broom@dps.nm.gov

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	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Identical to 2024 SS SJR1 and similar to several previous proposals

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Proposes to amend Art. 2, Sec. 13 of the state Constitution to allow for denial of bail and pretrial detention of a defendant deemed dangerous or a flight risk or who has previously failed to appear before a court as required.

FISCAL IMPLICATIONS

No fiscal implications to DPS.

SIGNIFICANT ISSUES

House Joint Resolution 9 (HJR 9) proposes an amendment to Article 2, Section 13 of the New Mexico Constitution regarding conditions for bail and pretrial detention. The resolution seeks to expand the circumstances under which bail can be denied, including cases where a person is deemed dangerous, poses a flight risk, or has previously failed to appear before a court. It removes the current limitation that bail can only be denied to those charged with a felony, broadening its application to other offenses under certain conditions. Additionally, it eliminates the requirement that only a court of record can make determinations on bail denial.

HJR 9 would provide much needed additional language and clarity to the criminal detention process that has been hard to work with since these provisions were originally put into the New Mexico Constitution in 2016. These changes will provide courts with the ability to deny bail not only for felonies, but also for individuals who are a flight risk or have previously failed to appear in court. There is a provision that states that individuals who are unable to pay bail due to financial hardship cannot be detained unless they pose a danger or flight risk, and they can request relief from the bond requirement upon motion to the court.

The amendment will be put to a vote by the people of New Mexico in a future election.

Rule 5-409 NMRA will need to be amended to correspond with what is outlined in HJR 9 should the people vote for the change. Rule 5-409 NMRA places the burden on the prosecution to 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. HJR shifts the burden from the prosecution and requires that the court make a finding by clear and convincing evidence that the person is dangerous and that release conditions will not reasonably protect the safety of another person or the community, that the person is a flight risk, or that the person has previously failed to appear before a court as required.

The bill adds to the requirement to detain a person in addition to dangerousness being shown by clear and convincing evidence that the person is also a flight risk, or that the person has previously failed to appear before a court as required in Section 1 C.

PERFORMANCE IMPLICATIONS

No performance implications to DPS.

ADMINISTRATIVE IMPLICATIONS

No administrative implications to DPS.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

No conflict, duplication, companionship or relationship to DPS.

TECHNICAL ISSUES

No technical issues to DPS.

OTHER SUBSTANTIVE ISSUES

No other substantive issues to DPS.

ALTERNATIVES

Not applicable as no impact to DPS.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo will remain.

AMENDMENTS

None at this time.