

LFC Requester:

**AGENCY BILL ANALYSIS
2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.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}

Check all that apply:

Original **Amendment** _____
Correction _____ **Substitute** _____

Date January 29, 2025
Bill No: SB 153-280

Sponsor: Antonio Maestas & Nicole Chavez
Short Title: Aggravated Burglary and Home Invasion Crimes

Agency Name and Code Number: Law Offices of the Public Defender-280
Person Writing: Joelle Gonzales
Phone: 505-395-2832 **Email:** Joelle.Gonzales@lopdm.us

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 Expenditure 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 153 seeks to create a new section of law alongside NMSA 1978 § 30-16-4, the aggravated burglary statute, which increases penalties for burglaries committed with a deadly weapon or where a battery is committed once inside. It would make stylistic changes to the existing section, and substantively, would omit the word “dwelling” from the existing statute. SB 153 would then replace burglary of a dwelling with a new section of law addressing home invasions,” to be codified as Section 30-16-4.1.

SB 153 would require that if an occupied dwelling is burglarized, and if the burglar has a deadly weapon, arms themselves with a deadly weapon after entry, or “commits any unlawful act, threat or menacing conduct that causes another person to reasonably believe that the person is in danger of receiving an immediate battery,” the person has committed a second degree felony. (The quoted language corresponds to the definition of “assault” under NMSA 1978, Section 30-3-1(B).)

FISCAL IMPLICATIONS

It is difficult to predict the number of cases that would be brought in any given year under the increased penalty scheme contemplated. However, higher-penalties cases are somewhat more likely to go to trial, which may increase public defender workload. While the LOPD would likely be able to absorb some increase in the penalty severity of “Home Invasion” cases under the proposed law, which applies a second-degree felony based on assault instead of requiring a battery, any increase in LOPD expenditures brought about by the cumulative effect of this and all other proposed criminal legislation would bring a concomitant need for an increase in indigent defense funding to maintain compliance with constitutional mandates. Barring some other way to reduce indigent defense workload, the increase in the number of felony prosecutions would bring a concomitant need for an increase in indigent defense funding in order to keep this problem from spreading. Of course accurate prediction of the fiscal impact would be impossible to speculate; assessment of the required resources would be necessary after the implementation of the proposed statutory scheme.

As to the increase in punishment, there has been no research that has found that increasing penalties has a deterrent effect on the commission of crimes. Therefore, this change would, at most, lead to an increase in incarceration, which would increase costs and population in Department of Corrections.

SIGNIFICANT ISSUES

Currently, aggravated burglary of a dwelling under 30-16-4 is also a second-degree felony but it requires a deadly weapon or a *battery* to incur that penalty; the new crime would elevate burglary of an occupied dwelling to a second-degree felony for the lesser offense of assault. Thus, this bill would mean that some cases currently only qualifying as third-degree residential burglary would qualify for second-degree felony penalties (tripling the penalty from three years to nine).

Because assault conduct is extremely broad and can include relatively minor conduct that causes a person to believe they *might* receive any form of battery (including a non-injurious touching), replacing batteries with assaults for this penalty increase blurs the line between third-degree and second-degree burglary.

PERFORMANCE IMPLICATIONS

See Fiscal Implications, supra.

ADMINISTRATIVE IMPLICATIONS

None noted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None noted.

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None at this time.