LFC Requester:	Sanchez

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

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(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: 2/6/2025
Bill Number: SB 196

Check all that apply:
Original X Correction __
Amendment __ Substitute __

Agency Name and Code Number: AOC 218

Sponsor: Sen. Brandt

Short Title: Denial of Bail Hearings & Presumptions

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	N/A	

(Parenthesis ( ) indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
None	None	None	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	Unknown	Unknown	Unknown	Unknown	N/A	

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: 2023 SB 174, SB 123, HB 74, HJR 9; 2024 SB 122, SJR 11, HB 44; and 2025 HJR9, HB165

SECTION III: NARRATIVE

BILL SUMMARY

SB 196 would amend Chapter 31, Article 3 NMSA 1978 Criminal Procedure Act by introducing rebuttable presumptions regarding the pretrial release of certain defendants in certain circumstances.

Section 1.A. Subject to rebuttal by the defendant, it is presumed the prosecution "has proven 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 if there is probable cause to believe"

(1) the defendant committed one of seven listed felonies, one of which incorporates 14 additional offense in another statute, one of which includes any felony during which a firearm was "brandished" or discharged, and the last of which is any felony resulting in great bodily harm or death, or if there is probable cause to believe the defendant

(2) was arrested on the current charge(s) (a) while awaiting trial or sentencing on any of the offenses listed in part A(1) or; (b) while on probation, parole or any other post-conviction supervision for one of the offenses listed in an part A(1) or; (c) within five years of being convicted of an offense listed in part A(1).

Section 1.B Once probable cause has been determined pursuant to Section A, the pretrial detention hearing shall proceed in district court and the prosecuting authority shall present "any other" evidence demonstrating 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."

Section 1. C Asserts that the above provisions do not shift the prosecutor's constitutional burden of proof.

Section 2. Defines "firearm" as "any weapon that will, is designed to or may readily be converted to expel a projectile by the action of an explosive."

Section 3 contains an emergency clause.

FISCAL IMPLICATIONS

SB196 does not propose any funding for any entity. Several recent studies and reports referred to below have been conducted based on the criteria presented in similar bills over the last 5 years. These bills and changes would initially detain large populations of individuals charged with

certain charges, and would increase costs for multiple agencies. An Inference and Presumption standard will create an automatic hold in detention of defendants for several days pending the scheduling and completion of a detention hearing. This will increase costs to multiple agencies: Courts, Detention Centers, District Attorney Offices, and the Office of the Public Defender.

Courts

Based on the data provided from the University of New Mexico Institute Of Social Research (UNM ISR) using Bernalillo County data and cost analysis as part of the New Mexico Supreme Court Ad Hoc Committee Report May 2020, (Appendixes F and G), there would be significant cost increases to the courts and local jails for additional resources and staff. In Bernalillo County, the studies have shown there would have been an additional 797 to 1969 individuals held using RPs resulting in 797 to 1969 additional court hearings. Each hearing is estimated to last at a minimum of 1 hour and additional 2.25 hours needed for judge and court staff prep time and completion of scheduling orders and docketing. Total time needed for each hearing is approximately 3.25 hours which projects at a cost of $178.35 per hearing.

Estimated Court staff resources and time:

- Judge review pleadings/orders and conduct the hearing: 1.5 hours
- Bailiff time: 0.5 hours
- TCAA Scheduling/process pleadings: 0.5 hours
- Court Monitor: 0.5 hours
- Clerk: 0.25 hours
- Total 3.25 Hours with a cost per hearing of **$178.35**

As an example, the Second Judicial District (2JD) would need an additional 100 to 246 court days to hold hearings 8 hours a day. Based on available court time per year of 230 days which includes subtracting holidays, weekends, vacation time and training days, additional court resources would be needed (judges, bailiffs, court monitors and TCAAs). Using UNM ISR reports and data from 2JD, all courts across the state would require additional judges, court staff and court facilities to cover these hearings. Because the analysis was originally focused on HB80, SB123, and HB44 from the 2022, 2023, and 2024 Legislative Sessions and SB196 may be broader, the court resources needed would increase from these original estimates. A resource and cost analysis should be completed to fully understand the fiscal impact and needs of the courts.

Detention Centers

Jail costs would also be impacted with more people held in detention prior to trial. Based on data provided by UNM ISR, an additional 797 to 1,969 defendants would have been detained under the HB80 proposal in 2022. This would increase the number of bed days needed for defendants automatically held (minimum of 5 days) pending a hearing by 3,985 bed days to 9,845 bed days. With the Bernalillo County Metropolitan Detention Center (MDC) cost per day of $133.00, this could be an increase of $530,005 to $1,309,385 per year to hold defendants for 5 days pending a detention hearing. If 50% of the defendants automatically held have a time to case disposition of 180 days, jail costs would increase at an estimated range of $9.5 million to $20.5 million during the time frame of the data used, July 2017 to March 2020. Because SB196 may broaden the net of presumptive preventive detention, the costs could be more. MDC could see a daily population

increase of 20% to 50%. The increased costs statewide to all detention centers would be expected and more resources would be needed.

Prosecutors and Public Defenders

District Attorney Offices and the likely would result in a need for more attorneys and support staff across the state. In areas of the state that do not have a Law Office of the Public Defender and use contract attorneys, there would need to be an increase in the availability of local defense counsel, which currently has a shortage in the state. Also private defense counsel would likely experience higher costs due to increased detention hearings resulting under SB196.

Due to the potential fiscal impact of SB196, it is recommended that a review of existing research and data on inferences and presumptions be considered as part of the potential effect or lack of desired effect to public safety.

SIGNIFICANT ISSUES

The Law

SB196 may create constitutional issues based on the requirements of New Mexico Constitution, Article II, section13, and New Mexico Supreme Court Opinions, including *State v. Brown*, 2014-NMSC-038, para. 52;

> "Neither the Constitution nor our rules of criminal procedure permit a judge to base a pretrial release decision solely on the severity of the charged offense. Bail is not pretrial punishment and is not to be set solely on the basis of an accusation of a serious crime. As the United States Supreme Court has emphasized, "[t]o infer from the fact of indictment alone a need for bail in an unusually high amount is an arbitrary act." *Stack v. Boyle*, 342 U.S. at 6. The State has argued that $250,000 is a standard bond for an offense that can result in life imprisonment. This argument runs contrary to both the letter and purpose of Rule 5-401, which requires the judge to make an informed, individualized decision about each defendant and does not permit the judge to put a price tag on a person's pretrial liberty based solely on the charged offense. . . Empirical studies indicate that the severity of the charged offense does not predict whether a defendant will flee or reoffend if released pending trial. *See* Curtis E.A. Karnow, *Setting Bail for Public Safety*, 13 Berkeley J. Crim. L. 1, 14-16 (2008) (reviewing studies indicating that "evidence does not support the proposition that the severity of the crime has any relationship either to the tendency to flee or to the likelihood of re-offending"); 4 Wayne LaFave et al., *Criminal Procedure*, § 12.1(b), at 12 (3d ed. 2007) (citing studies and stating that the "likelihood of a forfeiture does not appear to depend upon the seriousness of the crime")."

See also State ex rel. Torrez v. Whitaker, 2018-NMSC-005, para. 101 ("Detention decisions, like release conditions, should not be based categorically on the statutory classification and punishability of the charged offense. But the particular facts and circumstances in currently charged cases, as well as a defendant's prior conduct, charged or uncharged, can be helpful in making reasoned predictions of future dangerousness. The fact that a defendant has shown a propensity for engaging in dangerous conduct in the past may be helpful in predicting whether that behavior is likely to continue in the future"). When a court fails to consider the defendant's history

of violence and non-compliance with pretrial conditions, the court errs in denying pretrial detention. *State v. Anderson, 2023-NMSC-019,* para. 40 (reversing denial of pretrial detention).

The New Mexico Supreme Court has engaged the criminal justice community on numerous occasions to get feedback on the pretrial rules and consider adjustments that will improve public safety. Having heard concerns that a defendant on pretrial release who gets arrested may simply be re-released in a so-called "revolving door" of release, in 2024, the Supreme Court adopted revised pretrial rules, one of which requires that a defendant on pretrial release who is arrested for a new felony or certain enumerated misdemeanors be held until the judge who granted pretrial release holds a hearing to decide if the new charge(s) demonstrates a need for new conditions of release or for revocation of release and imposition of pretrial detention. *See* NMRA 2024, Rule 5-403C(2).

The Supreme Court decisions and rules respect the value of prior misconduct and all available information in making a detention decision, while repeating the fact that the charge itself, no matter how serious, is insufficient to establish the need for pretrial detention. SB196 in sections A and B imposes on the judge a presumption that the prosecutor's constitutional burden of proof has been met, and then states in the succeeding sections that the burden remains on the prosecutor to meet the high constitutional threshold for pretrial detention. Although the prosecutor's constitutional burden to justify pretrial detention is proof by clear and convincing evidence, the prosecutor establishes the presumption in favor of pretrial detention under SB196 by proof of probable cause, a much lower standard of proof.

<u>Current Law and Rules for Preventive Detention</u>

The New Mexico Constitution provides that every defendant has the right to pretrial release. Currently in New Mexico, anyone charged with a felony level offense is eligible for preventive detention. New Mexico has a fairly large net of offenses, all felonies, which can be considered for preventive detention. In order to secure pretrial preventive detention, the NM Constitution requires the government to file a motion with a court and prove by "clear and convincing evidence" that the defendant is a public safety risk and no conditions of release can reasonably ensure community safety. In FY24, a preventive detention motion was filed on approximately 6.6% of all felony cases filed in New Mexico. As a result of these motions 1,287 defendants were detained during the pretrial period of the case. From the beginning of FY18 to the end of FY24 a total 7,869 defendants have been preventively detained in New Mexico under the current pretrial justice system.

According to the New Mexico Supreme Court, "the prosecuting authority has the burden of proving by clear and convincing evidence that (1) the defendant poses a future threat to others or the community, and (2) no conditions of release will reasonably protect the safety of another person or the community." *State v. Ferry*, 2018-NMSC-004. Additionally, the Supreme Court has promulgated Rule 5-409 NMRA. According to Rule 5-409, "Notwithstanding the right to pretrial release under Article II, Section 13 of 3 the New Mexico Constitution and Rule 5-401 NMRA, under Article II, Section 13 and this rule, the district court may order the detention pending trial of a defendant charged with a felony offense if the prosecutor files a motion titled "Expedited Motion for Pretrial Detention" and proves by clear and convincing evidence that no release conditions will reasonably protect the safety of any other person or the community."

Article II Section 13 of the New Mexico State Constitution requires:

1. Probable cause determination;
2. Prosecution files motion for detention (all felony cases are eligible)
3. Prosecution must prove by clear and convincing evidence that no conditions of release exist to ensure the safety of the community
4. Judge examines multiple factors to determine if the prosecution has met its burden (see Rule 5-409 NMRA)

SB196 Proposed Changes

SB196 proposes to presume pretrial detention based on the fact that the charge, established by probable cause, is one of many listed offenses. SB196 appears to reduce the evidentiary standard for the deprivation of a person's liberty based on the inference drawn by the judge that all presented evidence from the prosecuting authority is true.

The Data on Pretrial Detention

A primary purpose of the pretrial services program the AOC is implementing statewide is to maximize public safety based on a defendant's risk for committing a new crime while on pretrial release and specifically the risk of violence. It is an unfortunate fact that we will never be able to determine with 100% accuracy which defendants are so likely to engage in violence that they should not be released during the time between arrest and resolution of their criminal charges. During the pretrial period, the presumption of innocence means that most defendants will be released except for those who are too dangerous to be released based on evidence, such as their past conduct and any other information the DA brings before the court. Article II, section 13 of the NM Constitution provides that a judge can only order a defendant to remain in jail during the pretrial period if the DA brings a motion to detain and demonstrates that the defendant presents a threat to a victim or public safety in general that will not be effectively managed by less restrictive pretrial conditions.

A judge will set conditions of release within 48 hours of arrest, except that a defendant is detained until a detention hearing for up to five additional days if the DA files a motion for pretrial detention based on the defendant's dangerousness. In setting conditions of release (when there is no motion for detention by the DA), the judge can consider any evidence submitted to the court that relates to a defendant's risk of nonappearance at future scheduled court appearances and/or the defendant's risk of committing additional crime(s) during the pretrial period and especially crimes that threaten harm to a victim or to the public in general. When the DA does not file a detention motion and the DA fails to appear for the initial appearance setting conditions of release the judge is deprived of the DA's input on what conditions are appropriate. The judge at first appearance will have a Public Safety Assessment (PSA) and a Background Investigation Report (BIR) on the defendant's criminal history. The PSA is shared with the DA and defense attorney. If they fail to appear, the judge is deprived of the input of those who have the duty to advocate for New Mexico's citizens (the DA) and for the defendant (the defense attorney), but the judge is still required to set release conditions and will at least have the PSA and BIR.

Several publications on pretrial detention presumptions in the federal system address this issue. The reports were published by the Probation and Pretrial Services Office of the

Administrative Office of the U.S. Courts. In a study authored by Amaryllis Austin, Probation and Pretrial Services Office, Administrative Office of the U.S. Courts, *The Presumption for Detention Statute's Relationship to Release Rates,* Federal Probation Journal*, volume 81, number 2* (September 2017) found at: https://www.uscourts.gov/about-federal-courts/probation-and-pretrial-services/federal-probation-journal/2017/09/presumption-detention-statutes-relationship-release-rates, research found that;

> Furthermore, the effect of the presumption on actual release rates and on the recommendations of pretrial services officers was most significant for low-risk defendants (meaning there may be some level of unnecessary detention), while having a negligible effect on the highest risk defendants. Additionally, the presumption has failed to correctly identify defendants who are most likely to be rearrested for any offense, rearrested for a violent offense, fail to appear, or be revoked for technical violations. In the limited instances where defendants charged with a presumption demonstrated worse outcomes than nonpresumption cases, the differences were not significant and were most likely caused by the system's failure to address these defendants appropriately under the risk principle.
>
> These results lead to the conclusion that the presumption was a poorly defined attempt to identify high-risk defendants based primarily on their charge, relying on the belief that a defendant's charge was a good proxy for that defendant's risk. In the years since the passage of the Bail Reform Act of 1984, there have been huge advances in the creation of scientifically-based risk assessment methods and tools, such as the PTRA. This study finds that these tools are much more nuanced and effective at identifying high-risk defendants.

A similar conclusion was reached by another study of presumptions in the federal system; *The Rising Federal Pretrial Detention Rate, in Context,* Matthew G. Rowland, Federal Probation, volume 82, number 2 (September 2018) at page 17, found at: https://www.uscourts.gov/about-federal-courts/probation-and-pretrial-services/federal-probation-journal/2018/09/rising-federal-pretrial-detention-rate-context;

> Where the government does seek detention, it has the burden of proof in many cases and must demonstrate the defendant is a risk of flight by a preponderance of the evidence and show danger to the community by an even greater standard, clear and convincing (Boss). There is an exception, however, that is growing larger than the rule in favor of release. The exception is found in 18 U.S.C. §3142(e) and flips the burden of proof for release onto the defendant when the defendant is charged with offenses said to involve violence, drugs, and sex offending. A presumption of detention also extends to some predicate felons. The "presumption was created with the best intentions: detaining the 'worst of the worst' defendants who clearly posed a significant risk of danger to the community by clear and convincing evidence. Unfortunately, it has become an almost de facto detention order for almost half of all federal cases." (Austin 61). Unfortunately, research indicates that the enumerated offenses may not be the best predictors of risk of flight or danger to the community (Austin 60). Consequently, the Judiciary has suggested that Congress reexamine the presumption provisions (Judicial Conference of the United States).

The federal courts have found, a has research in New Mexico, that "people held in jail pretrial are more likely to be convicted, to be sentenced to longer incarceration terms, or to commit new crimes post-trial compared to their released counterparts. The relative cost of pretrial detention – about

$92 per day – is also significantly higher than the cost of pretrial supervision – about $11 a day. Defendants released in the federal system have a high degree of success, with 86 percent committing no new violations or failing to appear in court as required. Pretrial Release and Detention in the Federal Judiciary, a publication of the United States Courts (February 15, 2023) found at: https://www.uscourts.gov/about-federal-courts/probation-and-pretrial-services/pretrial-services/pretrial-release-and-detention-federal-judiciary

The Commonwealth of Virginia had statutory presumptions for pretrial detention from 1996 until they were repealed in 2021. A 2023 study found that this 25-year presumptions experience showed harm to many and no benefit to public safety.

> "The combination of higher detention rates and longer detention periods for those subject to presumptions meant that as many as approximately 7% (and as much as 25%) of all inmate days in Virginia's jails were due only to the presence of presumptions. The operating costs associated with the days for defendants known to have been subject to presumptions exceeded $65M annually. . . If presumptions led to avoided violence or harm to the public, it could be suggested that these costs might be balanced by the societal benefits. Our study uses the sample of individuals subject to presumptions who were released to estimate this risk. We find defendants subject to presumptions were no more likely to be rearrested for a subsequent criminal offense during the pretrial period than those who did not. Fewer than 5% of defendants who faced presumptions but were released were charged with a new violent offense in the pretrial period, nearly identical to the share among defendants who did not face presumptions. This is true even when we account for other differences between presumption and non-presumption cases. Therefore, the cost of presumptions does not result in any benefit. Taken together, our findings suggest that the 2021 repeal of presumptions saved tens of millions of dollars in jail costs and prevented harms to tens of thousands of Virginians and their families.
> Ariel BenYishay, *Impacts of Presumptions Against Bail On Pretrial Release and Public Safety in Virginia*, January 24, 2023 William & Mary, p.13, found at: https://www.justice4all.org/wp-content/uploads/2023/06/Impacts-of-Presumptions-Against-Bail-on-Pretrial-Release-and-Public-Safety-in-Virginia-Jan-24-2023.pdf.

In New Mexico, LFC researchers relied on research by the Institute for Social Research at UNM which analyzed the impact of several legislative proposals to establish presumptions of detention based on the charge in more than 15,000 cases with pretrial releases in Bernalillo County over four years, reaching the conclusion that pretrial presumptions would not improve public safety;

> ISR's December 2021 study included data on the public safety implications of HB80. It found that violent charge-based rebuttable presumptions could have led to the detention of defendants in nearly 3,000 additional cases over a four-year period. Over 80 percent of the defendants in this group committed no new crimes during the pretrial period. Thus, charge-based rebuttable presumptions could have led to the unnecessary detention of roughly 2,400 defendants while preventing 253 violent arrests and 300 non-violent arrests over four years... Notably, most of the violent crimes that would have been prevented were fourth-degree felonies for aggravated assault, and none of the homicides committed by defendants on pretrial release during the four-year period would have been prevented by the reforms because none were committed by the population the bill targeted. In fact, all seven murders were committed by defendants previously arrested for offenses not involving serious violent charges. While counterintuitive, these findings are consistent with national research

> on pretrial detention, which has found little empirical support for charge-based detention policies. In other words, using a defendant's current criminal charge as the primary determinant for detention is a values-based approach, not an evidence-based one. LFC Report, December 2021, pages 13-14.

In addition, the LFC report at page 11 finds, "Little Evidence Exists to Suggest that Bail Reform is Driving Violent Crime Trends in Albuquerque." The LFC points to other possible factors impacting crime. See page 6, "Arrests and convictions for violent offenses have remained relatively flat through at least seven years of rising violent crime." See page 8, "Justice is not certain for those who are arrested due to low prosecution and conviction rates" and "Declining case clearance rates and low conviction rates suggest law enforcement agencies in Albuquerque are not creating effective deterrence." Also see Chart 18 on page 14, "40 Percent of Defendants Prosecutors Sought to Detain Pending Trial Were Not Ultimately Convicted."

The ISR report found that, "detaining additional defendants based on rebuttable presumptions would decrease the rate of serious crime only slightly" while "a wide variety of criteria for rebuttable presumptions have poor accuracy and a high false positive rate. Despite the presumed intentions of policymakers, these proposals do not accurately target the small fraction of defendants who will be charged with new serious crimes if released pretrial. Instead, they cast a wide net, recommending detention for a large number of defendants who would not receive any new charges during the pretrial period" (ISR Report, pages 13, 19). The ISR Report concludes that rebuttable presumptions, "reduce judicial discretion by requiring judges to regard large classes of defendants as dangerous by default, rather than demanding that prosecutors prove this individually. Their proponents argue that they prevent a large amount of crime with a minimal impact on civil liberties. We have shown that this is not the case, both because a small fraction of crime is committed by pretrial defendants, and because presumptions detain many defendants for each crime they prevent" (ISR Report, page 21)

Multiple studies have demonstrated that the desired goal of increasing public safety will not be achieved by introducing "inference and presumption" into the pretrial release process. Analyses from the Santa Fe Institute (SFI) and the University of New Mexico Institute for Social Research (UNM) of similar legislation show how often individuals who are identified by these bills are rearrested during the pretrial phase. In Bernalillo County, there were a total of 15,134 felony defendants who were released and their case closed during a four-year period from July 2017 through June 2021. The charge criteria in a prior proposal, HB44, which overlaps with those in SB196, would apply to between 2,127 and 5,092 of these 15,134 defendants. Based on these studies, it is likely that many more defendants may be detained during the pretrial phase of their case which could last months and/or years until those cases are adjudicated.

The SFI/UNM study also measured how often defendants charged with a Serious Violent Offense, the same and/or similar to the "serious violent offenses" listed in SB196, are rearrested for various types and severities of crime. Only 4% of defendants were rearrested for a violent felony; 3% were arrested for a violent misdemeanor or petty misdemeanor; 7% were rearrested for a nonviolent offense; and 86% were not rearrested for any new charge during their pretrial period. Measured by rearrests, defendants charged with "dangerous violent felonies" are not significantly more dangerous to the public, as a group, than other felony defendants. Defendants charged with "violent felony offenses" are frequently released on pretrial conditions and do not violate those conditions, including arrest for another offense, during the pretrial period.

According to the UNM ISR PSA Validation Study for Bernalillo County published in June, 2021, the vast majority of defendants determined to have the highest risk for picking up a new charge do not pick up new charges which includes a new violent charge.
https://isr.unm.edu/reports/2021/bernalillo-county-public-safety-assessment-validation-study.pdf

Also from the study:

- 71% of defendants who scored as high risk, do not pick up new charges.
- Of the 29% that do have new charges, 17% have a new non-violent charge and 12% have a new violent charge.
- Of all pretrial defendants released in Bernalillo County, 4% of defendants had a new violent charge.
- 2,472 cases had the appearance of the PSA Violence Flag, of those, 2,251 or 91% did not have a new violent charge during the pretrial stage of their case.

A study (2022) By Christopher Moore with the Santa Fe Institute: *How Accurate are Rebuttable Presumptions of Pretrial Dangerousness? A Natural Experiment from New Mexico,* found at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4143886, found that in various previous iterations of proposed preventive detention statutes, for defendants charged with a serious violent offense to whom the proposed presumption would have applied, the proposed statute would have detained 2,127 out of the total of 15,134 felony defendants charged over a four-year period, or 14%. Of these 2,127 defendants: 1,835 or 86% received no new charge; 80 or 4% received a nonviolent misdemeanor charge; 70 or 3% received a nonviolent felony charge; 61 or 3% received a violent misdemeanor charge; and 81 or 4% received a violent felony charge. In addition, of the 408 defendants with a firearms related charge, 315 or 77% received no new charge; 18 or 4% received a nonviolent misdemeanor charge; 50 or 12% received a nonviolent felony charge; 9 or 2% received a violent misdemeanor charge; and 16 or 4% received a violent felony charge. These rates of new charges parallel defendants to whom the presumption of detention would not have applied.

ADMINISTRATIVE IMPLICATIONS

Courts, prosecutors and defense attorneys will have to adjust practices to manage the significant increase in pretrial detention hearings. Detention centers funded by counties will need to allocate additional resources for more defendants on longer holds pending hearings and likely more defendants detained pretrial.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

2023 SB 174, SB 123, HB 74, HJR 9; 2024 SB 122, SJR 11, HB 44; and 2025 HJR9, HB165

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

New Mexico courts will continue to administer the existing pretrial rules which comply with constitutional requirements and provide for pretrial detention of defendants who have demonstrated a likelihood of committing a new crime, particularly a violent crime, if released on pretrial conditions.

AMENDMENTS