

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: February 12, 2025 *Check all that apply:*
Bill Number: SB 330 Original Correction
 Amendment Substitute

	Agency Name and Code
Sponsor: <u>Paul</u>	Number: <u>NM Sentencing Commission – 354</u>
Short Title: <u>Street Gang Activity Sentencing</u>	Person Writing: <u>Keri Thiel</u>
	Phone: <u>505-259-8763</u> Email: <u>kthiel@unm.edu</u>

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:** SB 329
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB 330 proposes to enact a new section of the Criminal Sentencing Act to provide sentencing enhancements for felonies listed in the bill if those felonies are “knowingly committed for the benefit of, at the direction of or in association with a criminal street gang with the intent to promote, further or assist in criminal conduct by gang members”.

The sentencing enhancements proposed in SB 330 are as follows:

1. One additional year for fourth degree felonies;
2. Two additional years for third degree felonies;
3. Three additional years for third degree felonies resulting in death;
4. Four additional years for second degree felonies;
5. Six additional years for second degree felonies resulting in death; and
6. Eight additional years for first degree felonies.

SB 330 includes an enumerated list of 28 felonies to which the sentencing enhancements would apply. The bill also specifies that the enhancements would also apply to an attempt to commit any of the enumerated felonies.

SB 330 provides that the enhancements shall run consecutively with the basic sentence, shall not be suspended or deferred, and shall run concurrently if more than one enhancement is imposed.

The bill also provides definitions of “criminal street gang” and “pattern of criminal street gang activity” and has an effective date of July 1, 2025.

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

It is difficult to determine what the effect of passing SB 330 would be on the state’s prison population, but the lengthy list of qualifying felonies included in the bill suggests that it would likely lead to more people being incarcerated by the Corrections Department.

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. The average increase in length of stay per one year sentencing enhancement is 0.796 years for serious violent offenses and 0.525 years for other crimes. Based on this data, we would expect the sentencing enhancements in SB 330 to increase sentence lengths by between 0.525 years (for fourth degree felonies) to 6.368 years (for first

degree serious violent felonies) when the elements for gang-related offenses set out in the bill are satisfied.

SB 330 also includes “an attempt to commit any of the felonies [enumerated in the bill]” in the list of felonies eligible for enhancement. However, not all of those attempts would be felonies; some of the offenses listed are fourth degree felonies, of which an attempt would be a misdemeanor.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The definition of “criminal street gang” provided in SB 330 does not match the definition of the same term provided in SB 329, which creates the crime of soliciting or recruiting a child into a criminal street gang. While each of these definitions applies only to its own section of origin, this may create confusion in applying and enforcing the law.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS