

HOUSE BILL 165

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Nicole Chavez and Andrea Reeb and Art De La Cruz

AN ACT

RELATING TO PRETRIAL DETENTION; REQUIRING A PROBABLE CAUSE DETERMINATION BEFORE A HEARING TO DENY BAIL; PROVIDING FOR PERMISSIBLE INFERENCES AND A PRESUMPTION SUPPORTING DENIAL OF BAIL FOR CASES INVOLVING DANGEROUS FELONY OFFENSES; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] PRESUMPTION THAT DEFENDANT IS DANGEROUS AND THAT NO RELEASE CONDITIONS WILL REASONABLY PROTECT THE SAFETY OF ANY OTHER PERSON OR THE COMMUNITY.--

A. A hearing to deny bail, initiated by a prosecuting authority pursuant to Article 2, Section 13 of the constitution of New Mexico, may proceed only after a magistrate court, metropolitan court or district court makes a probable cause determination as provided for by supreme court rule.

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1 B. During a hearing to deny bail for a defendant
2 charged with committing a dangerous felony offense, the
3 prosecuting authority may present all available evidence that
4 demonstrates that:

5 (1) the defendant is a danger to any other
6 person or to the community if released; and

7 (2) no release conditions will reasonably
8 protect any other person or the community.

9 C. Upon the introduction of the evidence described
10 in Subsection B of this section, the court shall infer that the
11 evidence is true and presume denial of bail is necessary.

12 D. After both parties present their evidence, the
13 court shall determine whether the inferences and presumption
14 supporting denial of bail were overcome. If the inferences and
15 presumption were not overcome, the court shall adopt them as
16 findings and issue an order in accordance with supreme court
17 rule.

18 E. As used in this section, "dangerous felony
19 offense" means:

20 (1) first degree murder, as provided in
21 Section 30-2-1 NMSA 1978;

22 (2) second degree murder, as provided in
23 Section 30-2-1 NMSA 1978;

24 (3) voluntary manslaughter, as provided in
25 Section 30-2-3 NMSA 1978;

1 (4) third degree aggravated battery against a
2 household member, as provided in Section 30-3-16 NMSA 1978;

3 (5) first degree kidnapping, as provided in
4 Section 30-4-1 NMSA 1978;

5 (6) first and second degree criminal sexual
6 penetration, as provided in Section 30-9-11 NMSA 1978;

7 (7) second and third degree criminal sexual
8 contact of a minor, as provided in Section 30-9-13 NMSA 1978;

9 (8) first and second degree robbery, as
10 provided in Section 30-16-2 NMSA 1978;

11 (9) second degree aggravated arson, as
12 provided in Section 30-17-6 NMSA 1978;

13 (10) shooting at a dwelling or occupied
14 building, as provided in Section 30-3-8 NMSA 1978;

15 (11) shooting at or from a motor vehicle, as
16 provided in Section 30-3-8 NMSA 1978;

17 (12) aggravated battery upon a peace officer,
18 as provided in Section 30-22-25 NMSA 1978;

19 (13) assault with intent to commit a violent
20 felony upon a peace officer, as provided in Section 30-22-23
21 NMSA 1978;

22 (14) aggravated assault upon a peace officer,
23 as provided in Section 30-22-22 NMSA 1978;

24 (15) a felony that was committed while the
25 defendant brandished or discharged a firearm; or

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1 (16) any of the following offenses, when the
2 nature of the offense and the resulting harm are such that the
3 court judges the crime to be a dangerous offense for the
4 purpose of this section:

5 (a) involuntary manslaughter, as
6 provided in Section 30-2-3 NMSA 1978;

7 (b) fourth degree aggravated assault, as
8 provided in Section 30-3-2 NMSA 1978;

9 (c) third degree assault with intent to
10 commit a violent felony, as provided in Section 30-3-3 NMSA
11 1978;

12 (d) fourth degree aggravated assault
13 against a household member, as provided in Section 30-3-13 NMSA
14 1978;

15 (e) third degree assault against a
16 household member with intent to commit a violent felony, as
17 provided in Section 30-3-14 NMSA 1978;

18 (f) third and fourth degree aggravated
19 stalking, as provided in Section 30-3A-3.1 NMSA 1978;

20 (g) second degree kidnapping, as
21 provided in Section 30-4-1 NMSA 1978;

22 (h) second degree abandonment of a
23 child, as provided in Section 30-6-1 NMSA 1978;

24 (i) first, second and third degree abuse
25 of a child, as provided in Section 30-6-1 NMSA 1978;

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- (j) third degree dangerous use of explosives, as provided in Section 30-7-5 NMSA 1978;
- (k) third and fourth degree criminal sexual penetration, as provided in Section 30-9-11 NMSA 1978;
- (l) fourth degree criminal sexual contact of a minor, as provided in Section 30-9-13 NMSA 1978;
- (m) third degree robbery, as provided in Section 30-16-2 NMSA 1978;
- (n) third degree homicide by vehicle or great bodily harm by vehicle, as provided in Section 66-8-101 NMSA 1978; or
- (o) battery upon a peace officer, as provided in Section 30-22-24 NMSA 1978.

SECTION 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.