

**LFC Requester:**

**AGENCY BILL ANALYSIS  
2019 REGULAR SESSION**

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*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**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** Feb 21, 2019  
**Bill No:** HB607

**Sponsor:** William "Bill" R. Rehm  
**Short Title:** Use of Prior Felonies in Sentencing

**Agency Name and Code Number:** Administrative Office of the District Attorneys (AODA) 264  
**Person Writing:** Gail MacQuesten  
**Phone:** 310 1723    **Email:** gailmacquesten@Gmail.com

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		
0	0	n/a	n/a

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
0	0	0	n/a	n/a

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY19</b>	<b>FY20</b>	<b>FY21</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	0	unknown	unknown	unknown	recurring	general

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB317; SB370; SB493  
Duplicates/Relates to Appropriation in the General Appropriation Act: none found

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

HB607 amends Section 31-18-17 NMSA 1978, the statute that alters the basic sentence for habitual offenders.

HB607 changes the definition of “prior felony conviction” to:

- Remove the exclusion of felonies under Section 66-8-102 NMSA 1978; and
- Include felony convictions when less than 25 years have passed prior to the instant felony conviction since the person completed serving the sentence or period of probation or parole for the prior felony.

**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.

HB607 will increase the number of felonies that will be subject to enhanced sentences under the habitual offender statute. It is difficult to tell whether the threat of a longer sentence will result in more plea bargains, or more cases going to trial. If HB607 results in more trials, that will mean increased costs to the district attorneys.

**SIGNIFICANT ISSUES**

HB607 includes in the definition of “prior felony conviction” a felony committed under Section 66-8-102, driving under the influence of intoxicating liquor or drugs. (A fourth or subsequent offense under that section is a felony.)

HB607 also includes felony convictions when less than 25 years have passed prior to the instant felony conviction since the person completed serving the sentence or period of probation or parole for the prior felony. (The current statute looks back only 10 years.)

**PERFORMANCE IMPLICATIONS**

As mentioned in Fiscal Implications, above, HB607 will increase the number of felonies that will be subject to enhanced sentences under the habitual offender statute. It is difficult to tell whether the threat of a longer sentence will result in more plea bargains, or more cases going to trial. If HB607 results in more trials, that will mean increased costs to the district attorneys.

#### **ADMINISTRATIVE IMPLICATIONS**

See Performance Implications, above.

#### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB317 amends Section 66-8-102.

HB370 and SB493 would allow convicted defendants to expunge records of their felony convictions, in some cases before the 25-year period set out in HB607.

#### **TECHNICAL ISSUES**

None found.

#### **OTHER SUBSTANTIVE ISSUES**

None found.

#### **ALTERNATIVES**

None proposed.

#### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Enhanced sentences under the habitual offender statute will be based on prior felonies under the DWI statute, and will not include felonies for which the defendant has completed the sentence, parole or probation more than 10 years ago.

#### **AMENDMENTS**

None proposed.