

LFC Requester: _____

**AGENCY BILL ANALYSIS
2020 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{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 January 15, 2020
Bill No: HB 32

Sponsor: Rehm
Short Title: Pretrial Detention/
Substance abuse treatment

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY20	FY21		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY20	FY21	FY22		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY20	FY21	FY22	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: none
Duplicates/Relates to Appropriation in the General Appropriation Act none

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 32 establishes a mechanism to keep certain criminal defendants detained provided they meet certain criteria. The criteria are set forth in Section 1A(1) to (3). Paragraph B sets out the process where a defendant may rebut evidence offered by the prosecuting authority and sets the burden of proof as preponderance of the evidence.

The bill also provides that a court may require a detained defendant to participate in substance abuse treatment if that defendant stipulates to having a substance abuse addiction or problem. The legislation provides for different alternatives for such treatment.

Finally, the bill provides for consequences should a person fail to complete a program ordered pursuant to Section D.

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.

More substance abuse treatment resources will be needed.

SIGNIFICANT ISSUES

Only the most dangerous defendants will be impacted by this legislation. Defendants who meet the criteria set forth in section 1A(1) through (3) may be subject to detention.

Of those defendants who are detained, the court may require them to participate in substance abuse treatment provided they stipulate to have a substance abuse addiction or problem.

PERFORMANCE IMPLICATIONS

It is not clear if more detention hearings will be required than what is already happening

pursuant to Rule 5-401.

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Article II, section 13 of the New Mexico Constitution; 5-401, NMRA 2019; State v. Brown, 2014-NMSC-038

TECHNICAL ISSUES

1. Page 2, Line 10 “person” should be “defendant.”
2. Section 1 D: this section provides for substance abuse treatment by one of four different ways. What is not clear, however is whether the defendant is released to undergo treatment or the treatment is to be provided while he is detained.

OTHER SUBSTANTIVE ISSUES

the judiciary has addressed pretrial release/detention in its rulemaking capacity.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

serious violent offenders may be released and commit more crimes

AMENDMENTS