

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 22, 2020
Bill No: HB 36-264

Agency Name and Code Number: Administrative Office of the District Attorneys 264

Sponsor: William "Bill" Rehm
Statute of Limitations for Second Degree Murder, trafficking controlled substances

Person Writing Analysis: Donald Gallegos
Email dgallegos@questalaw.com
Phone: 575-770-3120 : _____

Short Title: _____

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:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 36 changes the statute of limitations for Second Degree Murder from six years to no limit, similar to that for a capital felony and a first-degree violent felony. Trafficking Controlled Substances is exempted from the six-year time period set forth in §30-1-8A, (Page 1, line 25, and Page 2, lines 1 and 2), if the offense is a second or subsequent offense. Presently, a second or subsequent offense for trafficking controlled substances can be punished as a first degree felony.

Paragraph A (Page 1, lines 24 and 25 and Page 2, lines 1 and 2) added the language that would exempt second degree murder and second or subsequent offense of trafficking in controlled substances.

Paragraph I (Page 3, line 1) adds second degree murder as one of the offenses with no limitation on commencing prosecution.

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.

Although there will be prosecutions of cases that could not be prosecuted before, it is practically impossible to estimate how many more prosecutions, trials, corrections resources will be necessary.

SIGNIFICANT ISSUES

Getting rid of time limitations to commence a prosecution for second degree murder will

address those instances where a person can, and does, get away with murder. There are presently unsolved homicide cases in the State that have gone well past six years. Presently, if a suspect is identified and the evidence supports only a second degree murder charge, that person will not be prosecuted-he will literally get away with murder.

In New Mexico, to prove second-degree murder, the prosecution must prove beyond a reasonable doubt the following elements:

1. Defendant killed the victim;
2. The defendant knew that his acts created a strong probability of death or great bodily harm to the victim;
3. This happened in New Mexico on or about the_____

(See Rule 14-201, NMRA 2019. Also known as the Uniform Jury Instructions (UJI's)).

Additionally, the commission of second degree murder also requires a showing of general criminal intent which, among other things, requires a showing that the defendant acted intentionally when he committed the crime. A person acts intentionally when he purposely does an act which the law declares to be a crime even though he may not know that his act is unlawful. (See Rule 14-141, NMRA 2019).

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

HB 36 may read more clearly if the following changes are made:

1. Move the underscored material in Page 1, lines 24 and 25, and Page 2, Lines 1 and 2 and insert them in Page 3, Line 1.

The title to HB 36 states as follows: “providing for a six-year time limitation for prosecuting first-degree felony trafficking controlled substances;” however, the underscored material in Page 1, line 25 and Page 2, lines 1 and 2, exempts first-degree trafficking controlled substances from the six year time limit. Based on this, it is not clear whether the sponsor wishes to have first-degree trafficking controlled substances treated as a crime with no statute of limitations or subject to a six-year time limitation.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Persons who commit second degree murder will continue to get away with murder by being undiscovered for six years.

AMENDMENTS