

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

ORIGINAL DATE 02/08/13

SPONSOR Payne LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE 2<sup>nd</sup> Degree Murder Prosecution Time Limit SB 304

ANALYST \_\_\_\_\_

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

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	\$31.7 - \$317.0	\$31.7 - \$317.0	\$62.4 - \$624.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
 Administrative Office of the District Attorneys (AODA)  
 New Mexico Corrections Department (NMCD)  
 New Mexico Sentencing Commission (NMSC)  
 Attorney General's Office (AGO)  
 Public Defender Department (PDD)  
 Department of Public Safety (DPS)

### SUMMARY

#### Synopsis of Bill

Senate Bill 304 (SB 304) amends NMSA 1978, Section 30-1-8, Time Limitations for Commencing Prosecution, to add murder in the second degree to the list of offenses for which there is no time limitation for commencing prosecution. Currently, murder in the second degree, along with all other second degree felonies, has a six year statute of limitation.

### FISCAL IMPLICATIONS

The fiscal impact in the table above is a range assuming from one to 10 individuals being incarcerated as a result of this legislation becoming law.

**SIGNIFICANT ISSUES**

According to the AODA, putting second degree murder in the same category as first degree murder for purposes of the statute of limitations recognizes the seriousness of the crime of murder. Also, murder in the second degree is a lesser included offense of capital murder, differing in intent. From a prosecution/trial standpoint, it makes sense that the two crimes would have the same statute of limitations.

The NMCD stated that SB 304 could possibly have a minimal to moderate fiscal impact on NMCD and cause an increase to its prison population and probation and parole caseloads at some point in the future, not in the current three year fiscal period

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Three other bills would amend Section 30-1-8:

- HB 117 would remove time limits for prosecuting second degree murder (and change the time limits for prosecuting conspiracy and tampering with evidence).
- HB 126 would add second degree murder, voluntary manslaughter, assisting suicide, homicide by vehicle and all first degree felonies to the list of offenses for which there is no time limitation for commencing prosecution.
- HB 269 would not affect the time limits for prosecuting second degree murder, but would remove time limits for prosecuting offenses under NMSA 1978, Section 30-9-11 (rape).

NCJ/svb