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FISCAL IMPACT REPORT

SPONSOR: Beam DATE TYPED: 02/28/01 HB 694
 SHORT TITLE: Sentencing Hearings for Capital Felony Cases SB _____
 ANALYST: Rael

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
No Fiscal Impact					

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Attorney General's Office (AGO)
 Administrative Office of the Courts (AOC)
 Public Defender Department (PDD)

SUMMARY

Synopsis of Bill

The Sentencing Hearings for Capital Felony Cases bill would require, in capital felony cases, that the court explain to the jury that a sentence of life imprisonment means that the defendant would be eligible for parole in 30 years.

Significant Issues

This bill codifies the New Mexico Supreme Court's decision in Clark v. Tansy, 118 N.M. 486 (1994). The Clark case held it was error for the trial court to refuse to instruct the jury as to the meaning of a life sentence under New Mexico law. The court went on to hold that a trial court must so inform the jury if requested by the accused. This bill makes such an instruction a requirement regardless of the accused's wishes in the matter.

This bill might be viewed as an attempt by the Legislature to provide a rule of procedure for the courts, which is generally prohibited under the separation of powers doctrine. State v. Roy, 40 N.M. 397 (1936).

FISCAL IMPLICATIONS

No fiscal impact.

Trial court are already required to comply with this statute, at least where the defendant requests it.

Substantial costs would result if the trial court did not comply and the State had to pay for a new sentencing hearing. The PDD believes that codifying the law is a good method to prevent costly appeals.

OTHER SUBSTANTIVE ISSUES

The Attorney General's Office believes that this bill might be viewed as an attempt by the Legislature to provide a rule of procedure for the courts, which is generally prohibited under the separation of powers doctrine. State v. Roy, 40 N.M. 397 (1936).

Historically, the Judiciary has shared procedural rule-making with the Legislature, and the current rule is that any conflict between court rules and statutes that relate to *procedure* are resolved by the Court in favor of the rules. Southwest Community Health Services v. Smith, 107 N.M. 196, 198 (1988). Because there is currently no court rule on the matter, there is no conflict. However, should the Court decide to promulgate a rule on the matter, the Court rule will control.

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