



The bill also makes the necessary changes in parole procedures to require the inmate shall “remain incarcerated for the entirety of his natural life.” The bill strikes language allowing the parole board’s discretion in granting parole to an inmate convicted of a capital felony. The new language states that an inmate convicted of a capital felony and sentenced to life imprisonment must serve the life sentence without the possibility of release or parole. A “corrections facility” becomes “an institution.”

The bill repeals Section 31-18-14.1 NMSA 1978, which currently provides that a court shall explain to the jury that a sentence of life imprisonment means that the defendant shall serve thirty years of his sentence before he becomes eligible for a parole hearing. The new provisions shall apply only to individuals convicted of a capital felony offenses committed on or after July 1, 2003.

### Significant Issues

The Attorney General (AG) notes that under current law, if the jury cannot reach a unanimous verdict on the penalty, the judge must impose a life sentence, currently allowing a defendant to be eligible for parole after actually serving 30 years in prison. This bill establishes another option, incarcerating the defendant for the entirety of his or her natural life.

The Corrections Department (CD) notes that inmates who are sentenced to prison for the entirety of their lives are difficult to manage because they have no incentive to comply with the rules.

### **FISCAL IMPLICATIONS**

Adding to the number of aggravating circumstances for consideration in capital felony cases poses a significant cost for the state. Increased penalties will likely increase the workload throughout the judiciary, necessitating increased resources for the courts, district attorneys and public defenders.

AG indicates that an increase in the number of death penalty cases will likely increase the caseload in its criminal appeals division. These cases are complex and require a great amount of time to prepare and argue.

CD notes that after a period of approximately thirty years, the provisions of the bill may result in minimal to substantial cost increases in costs to CD as a result of the need to continue incarcerating those capital offenders who may otherwise have been released on parole.

### **TECHNICAL ISSUES**

AG notes that the term “heinous” is not defined in this bill, but that because the term is used in the death penalty statutes of other states, courts will have some guidance as to its application. AG adds that “heinous” usually encompasses torture or homicide inflicted in a particularly cruel manner.

**JCF/njw**