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FISCAL IMPACT REPORT

SPONSOR Moore DATE TYPED 2/11/05 HB 402

SHORT TITLE Life Sentence for Deadly Child Abuse SB _____

ANALYST Peery

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Defender Department (PDD)
 Administrative Office of the Courts (AOC)
 New Mexico Corrections Department (NMCD)
 Bernalillo County Metro Court (BCMC)

No Response

New Mexico Sentencing Commission (NMCS)

SUMMARY

Synopsis of Bill

House Bill 402 amends the criminal sentencing statutes by imposing a life sentence for child abuse resulting in death when the child is less than 12 years of age. The bill makes it possible for a court, in addition to the imposition of a basic sentence of imprisonment, to impose a fine not to exceed \$17,500 for a first degree felony resulting in the death of a human being. The bill amends the statutory section controlling Parole Authority and Procedures by adding language allowing the parole board's discretion in granting parole when an inmate was sentenced to life imprisonment as the result of conviction for a first degree felony resulting in the death of a human being.

FISCAL IMPLICATIONS

PDD reports the bill will increase the workload and expenses as it includes not only child abuse but also those crimes that are first-degree felonies that unintentionally result in death for a punishment of life in prison.

NMCD reports that a life sentence will contribute to a larger and older prison population. Costs will incur with an older prison population from geriatric services that include hospital care and disability accommodations.

ADMINISTRATIVE IMPLICATIONS

AOC reports adding another basic sentence of imprisonment for a first degree felony resulting in the death of a human being may take up a considerable amount of judicial time due to district courts conducting not only a trial, but a sentencing phase as well.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to Senate Bill 236 except in regards to the penalty.

TECHNICAL ISSUES

PDD reports the bill apparently creates a loophole for those child abusers who cause death of a child 12 years old or older. The bill would exclude these abusers from the penalty for first degree felony resulting in death, which is life imprisonment.

OTHER SUBSTANTIVE ISSUES

PDD states the bill makes no distinction between people who have no intent or knowledge of the abuse, and the actual abuser. PDD reports the bill would allow people not present and who did not know about the abuse to be sentenced to life in prison, the same penalty as the person who had deliberately murdered the child. For example, a mom who leaves the child with her boyfriend while she goes to work. The bill would allow people convicted of “negligently permitting” another to have access to a child, and that other person unintentionally causes death, to be sentenced to life in prison.

RLP/lg:njw