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FISCAL IMPACT REPORT

SPONSOR Garcia, M.J. DATE TYPED 01/20/05 HB _____

SHORT TITLE Domestic Violence as a Serious Violent Offense SB 63

ANALYST Woods

APPROPRIATION

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

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

State Parole Board
 Corrections Department
 Public Defender Department
 New Mexico Sentencing Commission

SUMMARY

Synopsis of Bill

This bill amends Section 33-2-34 NMSA 1978, "Eligibility for Earned Meritorious Deductions" (good time computations), to designate one felony crime (third degree aggravated battery against a household member) into a serious violent offense. It additionally designates two felony crimes (fourth degree aggravated assault against a household member, and third degree assault against a household member with intent to commit a violent felony) into serious violent offenses if the sentencing judge determines that they should be treated as such.

Significant Issues

Inmates convicted of serious violent offenses are only eligible to earn up to four days of good time per month, and therefore generally serve approximately 89% of their sentences in prison. Inmates convicted of crimes other than serious violent offenses can earn up to 30 days of good

time per month, and generally serve only approximately 64% of their prison sentences.

This bill impacts the Corrections Department in that, corresponding to the number of inmates convicted under the three “serious violent offense” designations, it could potentially increase the number of inmates serving approximately 89% of their prison sentences, therein extending their prison sentences and increasing the department’s incarceration-related costs.

PERFORMANCE IMPLICATIONS

The Corrections Department indicates the bill, by potentially increasing the length of prison sentences for a select group of inmates, will negatively impact the department’s ability to operate its prisons and prison-related programs. The State Parole Board indicates the bill will have little impact on board operations in that the same number of inmates would be heard by the Board, although at different points in time.

FISCAL IMPLICATIONS

This bill does not contain an appropriation; however it will potentially increase the incarceration costs associated with having to keep this group of inmates in prison for longer periods of time. Additionally, it could potentially increase the overall state prison population.

The department estimates that approximately 75 to 85 inmates per year enter the prison system subsequent to conviction of one or more of the three designated domestic violence felonies. The New Mexico Sentencing Commission notes that their report “Time Served in New Mexico Prisons, FY 2004: Analysis of the Impact of Earned Meritorious Deductions,” sets forth calculations for the average proportion of time served by inmates in fiscal year 2004. On average, serious violent offenders served 89.6% of their total sentence in fiscal year 2004. On average, nonviolent offenders served 64.3% of their total sentence in fiscal year 2004.

The Corrections Department notes that the contract/private prison annual costs of incarcerating a male inmate is \$20,720 per year, while for females the cost is \$26,313 per year. Further, the department indicates that state owned prisons are essentially at capacity, and that any net increase in inmate population will be shifted to contract/private facilities. The department additionally suggests that increased public awareness of domestic violence, as well as judicial sentencing patterns, could well contribute to an increase of felony designations beyond the current level of 75-85 inmates per year.

ADMINISTRATIVE IMPLICATIONS

The Corrections Department notes the bill will cause an increased administrative burden on the department by increasing the number of days this inmate group remains incarcerated, and by requiring the same number of staff to supervise the increased number of inmates.

TECHNICAL ISSUES

The Public Defender Department notes that the bill makes the good time reductions uniform for the same offenses regardless of the victim. The public defender additionally suggests that the variable of increased sentences will make it more difficult to plea bargain cases, “but not to an impermissible degree.”

POSSIBLE QUESTIONS

1. What are the anticipated costs to the Corrections Department if this bill is implemented?
2. How will this impact the capacity ceilings of the private/contract prison facilities?

BFW/yr