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FISCAL IMPACT REPORT

ORIGINAL DATE 1/26/07

SPONSOR Ryan LAST UPDATED _____ HB _____

SHORT TITLE Sentencing of Violent Felonies SB 467

ANALYST Peery-Galon

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	NA	Unknown	Unknown	Unknown	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Responses Received From
 Administrative Office of the District Attorneys (AODA)
 Public Defender Department (PDD)
 Administrative Office of the Courts (AOC)
 New Mexico Corrections Department (NMCD)

SUMMARY

Synopsis of Bill

Senate Bill 467 amends Section 31-18-23 NMSA 1978, to add the following to the list of violent felonies in the Criminal Sentencing Act: manslaughter, aggravated assault, assault with intent to commit a violent felony, aggravated battery, aggravated battery against a household member, sexual exploitation of children, criminal sexual contact of a minor, aggravated burglary, aggravated assault upon a peace officer, assault with intent to commit a violent felony upon a peace officer and aggravated batter upon a peace officer. Senate Bill 467 also expands the scope of four currently included violent felonies in Section 31-18-23 NMSA 1978. The broadened scope of violent felonies as follows:

- Shooting at or from a motor vehicle is expanded to include the entire crime, not just that

crime when it results in great bodily harm;

- Kidnapping is expanded to include all kidnapping, not just kidnapping resulting in great bodily harm inflicted upon the victim by the captor;
- Criminal sexual penetration is expanded to include all forms or levels of criminal sexual penetration; and
- Robbery is expanded to include all robbery, not just robbery while armed with a deadly weapon resulting in great bodily harm.

FISCAL IMPLICATIONS

NMCD states if a substantial number of individuals begin serving life sentences as a result of the expansion statute, the department's prison population is likely to eventually increase by a moderate to substantial amount. NMCD notes there is no appropriation in the proposed legislation to cover these potentially very substantial costs.

NMCD states the annual cost of incarcerating an inmate is \$23,867 per year for males and \$21,651 per year for females. The cost per client in probation and parole for a standard supervision program is \$1,467 per year, for an intensive supervision program is \$3,383 per year, for a NMCD community corrections program is \$3,503 per year, for a privately-owned community corrections program is \$7,917 per year, and for male and female residential community corrections program is \$39,401 per year.

AOC states there will be minimal administrative cost for statewide update, distribution and documentation of statutory changes. AOC reports any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and appeals from convictions.

SIGNIFICANT ISSUES

NMCD states the proposed legislation makes it more likely that individuals will be convicted of the expanded list of violent felonies. NMCD reports this means more individuals, who are now convicted of three designated violent felonies, will be sentenced to life imprisonment. NMCD reports life imprisonment means 30 years with no possibility of parole until after 30 years.

NMCD states if the proposed legislation causes moderate to substantial increases in prison population, it is likely the department will have to build new prisons, expand current prisons or contract with the private sector to house prisoners.

AOC reports that life imprisonment cases take up a considerable amount of judicial time. AOC states the proposed legislation may increase the work that needs to be done by the courts, requiring additional resources to handle the increased workload.

PERFORMANCE IMPLICATIONS

AOC states the proposed legislation will have an impact on the performance measures: "cases disposed of as a percent of cases filed" and "percent change in case filings by case type."

ADMINISTRATIVE IMPLICATIONS

NMCD states the proposed legislation will make it difficult for the department to provide its

current level of prison-related services without hiring additional staff or seeking out additional prison facilities.

PDD states legislation resulting in increased sentences always create the possibility that more criminal defendants will proceed to trial instead of accepting a plea offer. PDD reports this will result in an increased caseload and additional court time for the department's attorneys. PDD also states because of the severity of the sentence, sentences resulting in the imposition of life or life without the possibility of parole will be appealed, possibly increasing appellate caseload for the department, the Attorney General's Office, and the appellate courts.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

PDD notes the proposed legislation is a companion bill to Senate Bill 468, which amends Section 31-18-23 NMSA 1978 omitting the provision that imprisonment for a sentence of life may be subject to parole.

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