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## FISCAL IMPACT REPORT

ORIGINAL DATE 3/2/15

SPONSOR Pacheco LAST UPDATED \_\_\_\_\_ HB 590

SHORT TITLE Additional Felonies for Sentencing SB \_\_\_\_\_

ANALYST Chenier

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

|              | FY15 | FY16                       | FY17                       | 3 Year<br>Total Cost       | Recurring or<br>Nonrecurring | Fund<br>Affected |
|--------------|------|----------------------------|----------------------------|----------------------------|------------------------------|------------------|
| <b>Total</b> |      | See Fiscal<br>Implications | See Fiscal<br>Implications | See Fiscal<br>Implications | Recurring                    | General<br>Fund  |

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates HB 484.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)

Public Defender Department (PDD)

Attorney General's Office (AGO)

New Mexico Corrections Department (NMCD)

### SUMMARY

#### Synopsis of Bill

House Bill 590 amends Section 33-2-34 NMSA 1978, governing eligibility for earned meritorious deductions, as follows:

- Excludes inmates from earning meritorious deductions when sentenced to life imprisonment without possibility of release or parole earn.
- Includes first degree murder, when the offender is a serious youthful offender, within the definition of "serious violent offense" as used in Section 33-2-34 NMSA 1978. (Subsection L(4)(a)).
- Includes homicide by vehicle or great bodily harm by vehicle while under the influence of intoxicating liquor or while under the influence of any drug, as provided in Section 66-8-101 NMSA 1978, within the definition of "serious violent offense".
- Includes injury to pregnant woman by vehicle, as provided in Section 66-8-101.1 NMSA 1978, within the definition of "serious violent offense".
- Includes first second and third degree abuse of a child, as provided in Section 30-6-1 NMSA 1978, that does not result in death or great bodily harm, when the nature of the

offense and the resulting harm are such that the court judges the crime to be a serious violent offense.

- Excludes third degree homicide by vehicle or great bodily injury by vehicle, as provided in Section 66-8-101 NMSA 1978, from the definition of “serious violent offense”.

## **FISCAL IMPLICATIONS**

NMCD said that “NMCD estimates that the bill will not significantly increase its incarceration costs during the relevant three year period. That is, most if not all offenders convicted under this bill would still be serving their basic prison sentences during the relevant three year fiscal period, regardless of whether they were earning 30 days or only 4 days of good time per month. However, incarceration costs may increase substantially in subsequent years as inmates convicted of these new serious violent offenses serve 85 percent of their prison sentences instead of only 50 percent of their sentences.”

Reducing the number of crimes that are eligible for earned meritorious deductions will reduce the number of inmates released each year and increase sentence lengths, resulting in increased incarceration costs.

The average cost to house an NMCD inmate in 2014 was \$100.83 per day or \$36.8 thousand annually. The cost to house inmates varies depending on custody level and whether the inmate is housed in a private or public facility. The average annual probation and parole cost is \$2,783 for standard supervision, \$2,563 for Intensive Supervision programs, \$27.4 thousand for women’s residential treatment centers, and \$18.1 thousand for men’s residential treatment centers.

There is no estimate for how many offenders would not be afforded the opportunity to earn meritorious deductions but for every increase of 10 inmates in the prison population the estimated cost would be \$368 thousand annually.

## **SIGNIFICANT ISSUES**

Section 33-2-34 NMSA 1978, for those convicted of a serious violent offense, places a cap on meritorious deductions allowing inmates to earn only 4 days of deductions per month and does not allow them to earn deductions within 60 days of receipt by the corrections department. Under HB 590, if an individual commits the crimes added to the definition of “serious violent offense,” the convicted offender would be eligible to earn up to 4 days of good time per month while in prison, as opposed to up to 30 days per month for crimes that are not listed or defined as serious violent offenses.

The inclusion of first degree murder, when the offender is a serious youthful offender, within the definition of “serious violent offense” ensures that serious youthful offenders are only eligible to earn up to 4 days of good time when sentenced to serve less than a life sentence in Corrections Department custody.