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## FISCAL IMPACT REPORT

SPONSOR: Godbey DATE TYPED: 02/11/01 HB 288  
 SHORT TITLE: Earned Meritorious Deductions for Inmates SB \_\_\_\_\_  
 ANALYST: Trujillo

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		See Narrative		Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files  
 Corrections Department (CD)  
 Children Youth and Families Department (CYFD)  
 NM Public Defender (NMPD)  
 Attorney General (AG)  
 Administrative Office of the Courts (AOC)  
 Criminal Juvenile Justice Coordinating Council (CJJCC)

### SUMMARY

#### Synopsis of Bill

HB288 amends the definition of “serious violent offense” used to determine earned meritorious deductions for inmates to include certain serious youthful offenders.

#### Significant Issues

HB288 adds first degree murder (as provided in Section 30-2-1 NMSA 1978) to the offenses eligible for earned meritorious deductions when the offender was a serious youthful offender found to be guilty of first degree murder but sentenced to less than the mandatory term for an adult.

According to CJJCC, HB288 would close a loophole in the policy. Adults convicted of first degree homicide receive a sentence of life, which is not subject to meritorious deductions and is therefore not included in the list of “serious violent offenses” that receive reduced earned meritorious deductions under this policy. This change would classify first degree murder as a serious violent offense when the offender is a serious violent offender sentenced to other than life. Under the current policy, this offender would receive up to 30 days of credit for 30 days served; under the proposed change, the offender would earn up to 4 day credit for 30 days served.

According to CD, HB288 will rectify an oversight and an anomaly in the Earned Meritorious Deductions Act. Under current law, it is possible and sometimes likely that a juvenile who is convicted of first degree murder and sentenced to imprisonment by CD will receive a sentence of less than life imprisonment (i.e., a determinate sentence of, for example, twenty (20) years). Under current law, an adult who is sentenced to life imprisonment must serve thirty (30) actual years in prison before becoming eligible for parole, which means the inmate cannot earn “good time”. This bill provides that juveniles convicted of first degree murder and sentenced to less than life imprisonment will be eligible to earn a maximum of only four (4) days of “good time” per month rather than up to thirty (30) days per month. This is more comparable to other inmates sentenced for committing first degree murder.

### **PERFORMANCE IMPLICATIONS**

CD reports HB288 will have a positive impact upon the Department’s prison program because it will result in a more comparable sentence for adults sentenced to life imprisonment for first degree murder and juveniles sentenced to a determinate sentence of less than a life sentence (e.g., twenty (20) years) for first degree murder, yet still allow the inmate who was convicted of a crime committed as a juvenile to earn some “good time”. This should somewhat reduce the likelihood of the juvenile (later an adult) being the target of attack by adults who have been sentenced to life imprisonment, and provide an incentive for the juvenile (later an adult) to refrain from misconduct in prison.

### **FISCAL IMPLICATIONS**

HB288 does not contain an appropriation. However, it would have an indeterminate fiscal impact on CD. Under the existing policy, a single first degree sentence, with no suspensions or deferrals, normally 18 years, would receive up to nearly nine years of credit. Under the proposal, the offender could serve up to 7.8 additional years, at a cost of nearly \$213,000 (above the cost of time served under the existing policy). CD is not able to estimate how many offenders would fall under this classification, as the serious youthful offender designation is not indicated in the data files provided by agencies.

CJJCC is required by statute to report on the change in time served due to the implementation of the Earned Meritorious Deductions policy. CJJCC reports the good time figuring sheets do not designate Youthful Offender or Serious Youthful Offender status. The only way passage of this bill would have a fiscal impact on CJJCC is if they were requested to do specific analysis on additional time served by Serious Youthful Offenders in particular because it would require additional data collection to determine the Serious Youthful Offender status.

CD reports HB288 will eventually result in a minimal to moderate increase in costs to the department because these juveniles who are convicted of first degree murder and sentenced for less than life imprisonment will be required to serve at least eighty-five percent (85%) of their determinate sentence rather than perhaps only slightly more than half. The fiscal impact will be delayed for several years because these offender will presumably be required to serve a relatively long prison sentence. The increase in costs will be minimal to moderate because there are relatively few of these juveniles sentenced for less than life imprisonment.

### **ADMINISTRATIVE IMPLICATIONS**

According to CD, in both the short-term and the long-term HB288 should result in a slight decrease in the administrative burden upon prison personnel who will probably be somewhat less likely to be required to deal with misconduct on the part of the juvenile (later adult) who was sentenced to prison

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for committing first degree murder, but who can earn at least some “good time.” The bill will also probably make it somewhat less likely that other inmates sentenced to life imprisonment will target juveniles sentenced to prison for first degree murder for attack.

On the other hand, in the long-term HB288 will result in a slight increase in the administrative burden on prison personnel who will be required to manage a slightly larger prison population in later years due to the longer sentences served by those juveniles convicted of first degree murder and sentenced to CD for less than life imprisonment.

### **TECHNICAL ISSUES**

CJJCC reports a loophole in the policy will exist so that a Serious Youthful Offender convicted of first degree murder and sentenced to less than life would earn more credits to his sentence than would a person convicted of some second and third degree violent felonies. Even though this person had been given a longer sentence, the person could potentially serve less time in prison.

### **OTHER SUBSTANTIVE ISSUES**

CYFD reports HB288 would affect only those serious youthful offenders who are already handled as adult offenders under the Children’s Code.

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