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FISCAL IMPACT REPORT

SPONSOR: Park DATE TYPED: 3/06/03 HB 839

SHORT TITLE: Earned Meritorious Deduction Formula SB _____

ANALYST: Reynolds-Forte

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			(Substantial)	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Responses Received From
New Mexico Corrections Department

SUMMARY

Synopsis of Bill

HB 839 has two different purposes, both related to earned meritorious deductions, or “good time.”

First, the bill would increase the amount of “good time” that certain inmates would be eligible to earn. This group of inmates are those who are sentenced to prison for committing a “non-violent offense” (defined as any offense that is not a “serious violent offense”), are released on parole and then returned to prison as a parole violator. The bill would increase the amount of “good time” eligibility to thirty (30) days per month for the period of time they are serving as a parole violator. Under current law (since 1999) inmates who are sentenced to prison for a “non-violent offense,” are released on parole and then returned to prison as a parole violator are only eligible to receive either 4 or 8 days per month of “good time” for that period of time served in prison as a parole violator. Under current law, the inmate is eligible for a maximum of 4 days per month if their parole is violated for the alleged commission of a new crime or absconding from parole, or a maximum of 8 days per month if violated for any other reason (a so-called “technical” violation, such as failure to attend mandated counseling, etc.).

Second, this bill would amend the definition of “serious violent offender” to include certain addi-

tional offenses. It would include first degree murder, which was originally excluded from the list because adults sentenced to prison for first degree murder do not earn good time in that they are either sentenced to death or life imprisonment, which requires actually serving 30 years (with no “good time” deductions) before being eligible for parole. However, juveniles who commit first degree murder and who are sentenced as adults may receive a sentence other than a death sentence or life sentence, e.g., for 25 years, which currently makes them eligible for “good time.” The amendment would mean the juvenile would serve the 25 years as a serious violent offender with reduced good time.

The bill also adds the offense of Aggravated Battery Against A Household Member, because this is essentially the same offense of Aggravated Battery which is currently on the list. Similarly, it adds the offense of Aggravated Assault Upon A Household Member to the judicial discretionary list, because this is essentially the same offense as an Aggravated Assault, which is currently on the judicial discretionary list.

Finally, the bill adds to the judicial discretionary list, the crime of Attempt to Commit A Felony when the crime attempted is an offense on the existing list of serious violent offenses. For example, if the judge determines that an attempt to commit murder or an attempt to commit criminal sexual penetration involves serious violence, the judge could designate the crime committed as a serious violent offense. This would make sense under the existing statutory scheme. Many judges already attempt to do so on their Judgment and Sentences, but it is not allowed under current law.

Significant Issues

The Corrections Department believes that the most significant issue of SB 839 is that increasing the maximum amount of “good time” eligibility for non-violent inmates who are returned to prison as parole violators would somewhat reduce the pressure on the ever-increasing growth in prison population. As the legislature continues to increase the length of prison sentences and the number of criminal offenses, the prison population continues to grow, but no new prisons are being built. Also, there are no additional appropriations for contract prison beds.

Another significant issue to the Department is that the bill would increase the length of prison sentences for that specific group of offenders who are convicted of the offenses that would be added to the list of serious violent offenses. Of course, this would also increase costs somewhat. The Department notes that given the limited prison bed space and financial resources of the Department, it would be better to utilize these resources to house serious violent offenders for longer periods of time rather than non-violent offenders.

FISCAL IMPLICATIONS

The Corrections Department projects that the bill would probably reduce costs to the Department. The shortening of prison sentences that would result from increasing “good time” eligibility for non-violent offenders returned to the prison as parole violators have greater effect than the lengthening of prison sentences for those offenders whose crimes would be added to the list of serious violent offenders.

ADMINISTRATIVE IMPLICATIONS

The bill would slightly reduce the administrative burden upon Department attorneys, who are currently sometimes required to seek an amended Judgment and Sentence when the sentencing judge deems a defendant to be a serious violent offender when that is not allowed under current law.

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