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FISCAL IMPACT REPORT

SPONSOR	<u>Garcia, M.J.</u>	ORIGINAL DATE	<u>01/20/12</u>	HB	<u></u>
		LAST UPDATED	<u>02/10/12</u>		
SHORT TITLE	<u>Child Murder as Aggravating Circumstance</u>	SB	<u>59/aSJC</u>		
		ANALYST	<u>Sánchez/Daly</u>		

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

The impact after serving the first 30 years is over \$1 million per inmate for the remainder of the inmate's life. See Fiscal Implications.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Adult Parole Board (APB)
New Mexico Sentencing Commission (NMSC)
Children Youth and Families Department (CYFD)
Administrative Office of the Courts (AOC)
New Mexico Corrections Department (NMCD)
Crime Victims Reparation Commission (CVRC)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to Senate Bill 59: 1) clarifies that the provisions of sections 31-20A-2 and 5 regarding aggravated circumstances to be considered in sentencing apply only to capital felony cases; 2) bars consideration of the aggravating circumstances set out in those provisions in the sentencing of serious youthful offenders in capital felony cases; and 3) adds additional requirements to the new aggravating circumstance of a victim under the age of 13 that that victim was forcibly abducted and murdered with willful and deliberate intent.

Synopsis of Original Bill

Senate Bill 59 amends Section 31-20A-5 NMSA 1978 to add children under the age of 13 to the victims when considering aggravating circumstances during sentencing.

FISCAL IMPLICATIONS

The Corrections Department reports a minimal to moderate increase to the inmate population and probation and parole caseloads. The department is unable to provide an estimate since it is an unknown to it how many convictions would result in a life sentence. The average daily cost to the department to house and care for an inmate is \$92.89 or \$33.9 thousand per year. A life

sentence requires an offender to serve 30 years before being given parole consideration by the board. The estimate for an individual sentenced to life (instead of 30 years) at the age of 20 who lives 60 years is over \$1 million. The impact of adding aggravating circumstances to the sentence of a person convicted of murdering a child under the age of 13 will not take effect until 30 years after the individual has entered the prison system. Additionally, the daily cost to supervise parolees or probationers is \$8.27.

Every conviction and sentence to prison impacts the NMCD's operating budget since it is responsible for care and support of inmates. Moreover, individuals convicted of crimes involving violence against children are more likely to need or seek protective custody or other more costly security environments.

According to the Parole Board, changes to existing law will have little to no fiscal impact on it.

SIGNIFICANT ISSUES

According to the NMCD, if this and other bills are enacted into law the department will reach its rated capacity for its prison population and one of three options will have to be sought: 1) house inmates out of state, 2) release prisoners early or 3) build new or expand existing prisons.

According to the NMCD, life sentences are particularly expensive and those inmates generally require more medical care as they age in prison. Additionally, inmates serving life sentences tend to have little motivation to behave and are more apt to engage in behavior harmful to other inmates and staff.

PERFORMANCE IMPLICATIONS

Increases in the inmate population could impact inmate-on-inmate or inmate-on-staff assaults, and the community offender management performance measure of "percent of out-of-office contacts per month with offenders on high and extreme supervision on standard caseloads".

TECHNICAL ISSUES

According to the Children, Youth and Families Department the change of "capital felony" to "murder" in section (F) and (G) of the bill are improper. Murder under Section 30-2-1 NMSA 1978 includes murder in the first and second degree. Murder in the second degree is not eligible for a capital felony increase as is a first degree. Murder for hire is automatically a first degree murder however murder of a witness does not automatically imply intent.

ALTERNATIVES

Change Section (F) to first degree murder was committed for hire and section (G) the first degree murder of a witness.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Not enacting this bill will leave the sentencing structure as is and the defendant sentenced for the intentional murder of a child under the age of 13 would be subject to 30 years in prison versus the structure proposed in this bill would carry a sentence of life in prison without the opportunity for parole.