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FISCAL IMPACT REPORT

ORIGINAL DATE 01/30/12

SPONSOR Ryan LAST UPDATED _____ HB _____

SHORT TITLE Additional Violent Felonies SB 156

ANALYST Sánchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$50	\$50	\$100	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates HB43 and HB87, Relates to Relates to HB150, SB58, HB128, and HB44

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Corrections Department (NMCD)

Adult Parole Board (APB) Response to HB43

Attorney General’s Office (AGO) Response to HB43

Administrative Office of the Courts (AOC) Response to HB43

Administrative Office of the District Attorneys (AODA) Response to HB43

Sentencing Commission (NMSC) Response to HB43

Public Defender Department (PDD) Response to HB43

SUMMARY

Synopsis of Bill

Senate Bill 156 amends Section 231-18-23 NMSA 1978 to exclude “great bodily harm” and adds voluntary manslaughter, third degree aggravated battery, second or third degree shooting at or from a vehicle, third degree battery against a family member, first degree kidnapping, aggravated first or second degree criminal sexual penetration, second or third degree sexual contact of a minor, first or second degree robbery, second degree aggravated arson, aggravated assault on a peace officer, assault with the intent to commit a violent felony and third degree battery on a peace officer.

Individuals convicted of three of the violent felonies of this expanded list of violent felonies would serve life sentences, which mean that they would serve a full 30 year sentence (with no “good time” awarded) before becoming eligible for (but not guaranteed) parole.

FISCAL IMPLICATIONS

In House Bill 43, a duplicate of SB156, the New Mexico Corrections Department (NMCD) an estimated three year cost increase of \$100 thousand.

According to the NMCD, should the Legislature and the Governor determine that it is appropriate to pass this bill in the interests of enhancing public safety; the NMCD estimates that the bill will not increase its incarceration costs during the relevant three year period. However, incarceration costs are likely to increase substantially in subsequent years as more inmates convicted of three violent felonies off of the expanded list of violent felonies begin serving their life (minimum of 30 year) sentences.

The NMCD report that the classification of an inmate determines his or her custody level, and the incarceration cost varies based on the custody level and particular facility. The cost to incarcerate a male inmate ranges from an average of \$36,700 per year in a state owned/ operated prison to \$30,093 per year in a contract/private prison (where primarily only level III or medium custody inmates are housed). The cost to house a female inmate at a privately owned/operated facility is \$32,408 per year. Because the capacities of medium and higher custody state owned prisons are essentially at capacity, any net increase in inmate population will likely have to be housed at a contract/private facility.

The following agencies responded to House Bill 43, a duplicate of this bill as follow:

The Public Defender reports that the slight increase in trials would be absorbed by the department.

The Sentencing Commission reports that on June 30, 2011, the NMCD had On June 30, 2011, 215 offenders committed to the custody of the NMCD had a conviction for attempt, conspiracy or solicitation to commit a serious violent offense as their highest charge. That number represented approximately 3% of the total inmate population on that same date (6,598). If HB 43 becomes law, at some point in the future the increased length of stay for those offenders would begin to impact the state inmate population.

The Adult Parole Board reports that the bill does not address the potential increase in the prison population resulting from the reduction of earned meritorious deductions. As for the Parole Board, it would see no discernable fiscal impact. The Board would hear the cases at a later date.

SIGNIFICANT ISSUES

The NMCD reports that if numerous new or expanded crime bills such as this one are passed, the NMCD will eventually reach its rated capacity for its prison population. This is especially true if the NMCD incarcerates an increasing number of life sentence inmates. These inmates, eligible for parole after 30 full years, may not be immediately or ever paroled by the parole board.

According to the NMCD in its response to HB43, 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.

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”.

The courts anticipate the bill will impact two of the district courts performance measures:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type.

ADMINISTRATIVE IMPLICATIONS

The bill has the potential of increasing correctional officer and probation and parole officer workloads, increase the cost of the care and support of inmates.

According to the NMCD, current staffing levels and increases in the population will negatively impact the department’s ability to effectively perform prison and probation/parole supervision services.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Similar to House Bill 31 which amends the time limitation for certain crimes, and House Bill 44 which adds to the definition of serious felonies.

Duplicates HB87 and HB43; Relates to HB150, SB58, HB128, and HB44

TECHNICAL ISSUES

According to the Attorney General’s Office, an effective date is needed that could be based on the date of the crime, conviction of the crime or sentencing. Adding such a provision would avoid the issue of applicability and challenges on appeal.

ABS/lj