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| LFC Requester: | Sanchez, Scott |
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

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{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment** _____
Correction _____ **Substitute** _____

Date 1/23/24
Bill No: SB 97

Sponsor: Sen. Antonio Maestas
Short Title: Crimes of Shooting At and From Motor Vehicles

Agency Name and Code AOC 218
Number: _____
Person Writing Kathleen Sabo
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|---------------------------|---------------|
| FY24 | FY25 | | |
| None | None | Rec. | General |
| | | | |

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|---------|---------|---------------------------|---------------|
| FY24 | FY25 | FY26 | | |
| Unknown | Unknown | Unknown | Rec. | General |
| | | | | |

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY24 | FY25 | FY26 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------------|-------------|-------------|------------------------------|--------------------------------------|--------------------------|
| Total | Unknown | Unknown | Unknown | Unknown | Rec. | General |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Conflicts with HB 77 and HB 155, also amending Section 31-18-23 NMSA 1978, and SB 190, also amending Section 66-5-29 NMSA 1978.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB 97 amends Section 30-3-8 NMSA 1978, within the Criminal Code, to create two separate crimes:

- Shooting *from* a motor vehicle (Subsection B), consisting of willfully discharging a firearm from a motor vehicle with reckless disregard for the person of another, a third degree felony crime when there is no injury to another person, and a second degree felony crime when there *is* injury to another person.
- Shooting *at* a motor vehicle (Subsection C), consisting of willfully discharging a firearm at a motor vehicle with reckless disregard for the person of another, and a second degree felony crime.

SB 97 amends Section 30-3-8.1 NMSA 1978 to clarify that a motor vehicle used or intended for use for shooting at or from a motor vehicle is subject to seizure and forfeiture.

SB 97 also amends Section 30-3-8.2 NMSA 1978 to apply the section’s revocation of license provision to shooting at a motor vehicle or shooting from a motor vehicle and to those convicted of conspiring or attempting to commit either offense, pursuant to the provisions of Section 66-5-29(E) NMSA 1978. SB 97 amends Section 66-5-29(F) NMSA 1978 to clarify that the Motor Vehicle Division is required to revoke the driver’s license or driving privileges of the convicted person upon receipt from a district court of a record of conviction for the offense of shooting at a motor vehicle or shooting from a motor vehicle pursuant to Section 30-3-8 NMSA 1978 or of a conviction for a conspiracy or an attempt to commit either offense.

SB 97 amends Section 31-18-23 NMSA 1978, governing three violent felony convictions leading to mandatory life imprisonment, to include both shooting *at* and shooting *from* a motor vehicle within the definition of “violent felony.” SB 97 also amends the definition of violent felony to mean kidnapping resulting in physical injury or a sexual offense inflicted upon the victim by the victim’s captor, as provided in Section 30-4-1(B) NMSA 1978.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation

of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions and forfeiture proceedings, and appeals from convictions and license revocations. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

Increased penalties are likely to result in more defendants invoking their right to trials, as well as to jury trials. More trials and more jury trials will require additional judge time, courtroom staff time, courtroom availability and jury fees. Indigent offenders are entitled to public defender services.

SIGNIFICANT ISSUES

- 1) Under Section 30-3-8.1 NMSA 1978, the provisions of the Forfeiture Act, Chapter 31, Article 27 NMSA 1978, apply to the seizure, forfeiture and disposal of a motor vehicle subject to forfeiture pursuant to Subsection A.

Under Section 31-27-4(A) NMSA 1978, within the Forfeiture Act, a person's property is subject to forfeiture under state law if:

- (1) the person was arrested for an offense to which forfeiture applies;
- (2) the person is convicted by a criminal court of the offense; and
- (3) the state establishes by clear and convincing evidence that the property is subject to forfeiture as provided in Subsection B of this section.

Subsection B provides that following a conviction, a court may order the person to forfeit: (1) property the person acquired through commission of the offense; 2) property directly traceable to property acquired through the commission of the offense; and 3) any instrumentality the person used in the commission of the offense.

Pursuant to Section 31-27-6(B) NMSA 1978, the district courts have jurisdiction over forfeiture proceedings.

- 2) The SB 97 amendments increasing penalties are likely to result in more defendants invoking their right to trials, as well as to jury trials. More trials and more jury trials will require additional judge time, courtroom staff time, courtroom availability and jury trials. Indigent offenders are entitled to public defender services.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

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

ADMINISTRATIVE IMPLICATIONS

See "Fiscal Implications," above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with HB 77 and HB 155, also amending Section 31-18-23 NMSA 1978, and SB 190, also amending Section 66-5-29 NMSA 1978.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS