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FISCAL IMPACT REPORT

SPONSOR Rehm/Lord/Dow ORIGINAL DATE 1/24/22
LAST UPDATED _____ HB 25
SHORT TITLE Change Some Statutes of Limitation SB _____
ANALYST Mulvaney

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY22	FY23	FY24	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Minimal	Minimal	Minimal	Recurring	General

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
Administrative Office of the District Attorneys (AODA)
New Mexico Attorney General (NMAG)
New Mexico Correction Department (NMCD)
Department of Public Safety (DPS)
New Mexico Sentencing Commission (NMSC)

No Response Received

Law Offices of the Public Defenders (PDD)

SUMMARY

Synopsis of Bill

House Bill 25 would change the statute of limitations for second-degree murder and first-degree trafficking controlled substances.

Second-degree murder is a second-degree felony under Section 30-2-1(B) NMSA 1978. Under current law, the State must bring its prosecution within six years under Section 30-1-8(A) NMSA 1978. HB25 would eliminate the statute of limitations for second-degree murder entirely, allowing the State to commence a prosecution at any point.

Trafficking controlled substances is a first-degree felony if the defendant was previously convicted of trafficking under Section 30-31-20(B)(2) NMSA1978. Although the State may prosecute first-degree violent felonies at any point, there is no general statute of limitations for

non-violent first-degree felonies. Accordingly, the limitation period for first-degree trafficking (assuming that it would be classified as a non-violent felony) would be three years. HB25 would extend this limitation period to six years.

The effective date of this bill is July 1, 2022.

FISCAL IMPLICATIONS

The agencies responding note that there would be little to no fiscal impact.

SIGNIFICANT ISSUES

As per NMAG:

HB25 would apply retroactively to some, but not all, crimes that were committed before the effective date of the legislation. Extending the statute of limitations for second-degree murder and first-degree trafficking could not revive cases that were time-barred before the bill came into effect; this would constitute an ex post facto law. *See State v. Morales*, 2010-NMSC-148 N.M. 305 (“the extension of a statute of limitations cannot revive a previously time-barred prosecution”). The bill could, however, properly extend the deadline for cases in which the statute of limitations had not already run. *See id.* ¶¶ 15, 20 (holding, consistent with “the vast majority of jurisdictions,” that the Legislature could extend unexpired statutes of limitation).

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB79 Second Degree Murder Time & Sentencing would also abolish the statute of limitations for second-degree murder. It would not change the limitation period for first-degree trafficking.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The statute of limitations for second degree murder (six years) and trafficking controlled substances (three years) would not be changed.

BM/al