

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

The House Transportation, Public Works & Capital Improvements committee substitute for HB 600 amends Section 66-8-101 NMSA 1978, regarding homicide by vehicle and great bodily harm by vehicle, to increase the penalty for committing homicide by vehicle while driving recklessly in violation of Section 66-8-113 NMSA 1978 from a third degree felony to a second degree felony.

The substitute bill also amends Section 66-8-101 to provide a new fourth degree felony for committing homicide by vehicle or great bodily harm by vehicle while driving carelessly in violation of Section 66-8-114 NMSA 1978.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

The new fourth degree felony provided by the HTPWC substitute for HB 600 applies to both homicide by vehicle and great bodily harm by vehicle when those acts are committed while the defendant is violating the careless driving statute. This means that both homicide by vehicle during careless driving and GBH by vehicle that occur during careless driving are subject to the same penalty. Under the substitute bill, which increases the penalty for homicide by vehicle during reckless driving, homicide by vehicle and great bodily injury by vehicle are not subject to the same penalty when they occur while the defendant is violating the reckless driving statute. A higher degree of felony is assigned to homicide by vehicle than to great bodily harm by vehicle when those acts are committed while the defendant is violating the reckless driving statute. This creates an inconsistency between the way homicide/GBH during careless driving and homicide/GBH during reckless driving are handled in the Criminal Code.

The increased penalty for homicide by vehicle during reckless driving from a third degree felony to a second degree felony will likely lead to more people being incarcerated by the Corrections Department. In Fiscal Years 2023 and 2024 combined, there were 48 cases of homicide by vehicle during reckless driving (violations of Section 66-8-101(D) NMSA 1978). In 47 of those cases, the homicide by vehicle charge was the defendant's highest charge. Approximately 53% of these cases resulted in conviction. The median expected length of stay for individuals convicted of homicide by vehicle generally is 5 years; this figure accounts for earned meritorious deductions. Under Section 31-18-15 NMSA 1978, the difference in penalty between a third degree felony and a second degree felony is six years (three years for a third versus nine years for a second). Based on historical length of stay data, we expect a six-year increase in basic

sentence to result in an average increase of 3.15 years in length of stay, for a total expected length of stay of 8.15 years for homicide by vehicle convictions under the increased penalty provided in the HTPWC substitute for HB 600.

Similarly, the addition of a new fourth degree felony penalty for homicide or GBH by vehicle during careless driving may also lead to more people incarcerated by the Corrections Department. Homicide by vehicle during careless driving is likely currently penalized as involuntary manslaughter, which is also a fourth degree felony and thus may not result in a change to the prison population. However, the addition of GBH by vehicle during careless driving as a fourth degree felony may result in more people being incarcerated. The median length of stay for a fourth degree felony in New Mexico is 1.07 years.

The average per day cost to incarcerate someone in the state's prison system is \$155.63/day; this average includes private and public facilities.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS