

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB 35 amends Section 30-3-8 NMSA 1978 to separate the offenses of shooting at a motor vehicle and shooting from a motor vehicle. The bill amends Section 30-3-8(B) to increase the penalties for shooting from a motor vehicle and remove the distinction between injury and great bodily harm, and adds a new subsection for shooting at a motor vehicle. SB 35 also sets out the following penalties for the offenses of shooting from a motor vehicle and shooting at a motor vehicle:

- Shooting from a motor vehicle not resulting in injury would be a third degree felony (increased from fourth degree felony);
- Shooting from a motor vehicle resulting in injury would be a second degree felony (increased from third degree felony);
- Shooting at a motor vehicle would be a second degree felony (regardless of whether injury occurred).

SB 35 makes conforming changes to Section 30-3-8.1 NMSA 1978, regarding seizure and forfeiture of motor vehicles. The bill also makes conforming changes to the definition of “violent felony” in Section 31-18-23 NMSA 1978 of the Criminal Sentencing Act, regarding mandatory life imprisonment following three violent felony convictions, as well as Section 66-5-29 NMSA 1978, regarding the mandatory revocation of driver’s licenses.

SB 35 also amends the definition of “violent felony” in Section 31-18-23 to replace “kidnapping resulting in great bodily harm” with “kidnapping resulting in physical injury or a sexual offense”.

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

As of June 30, 2024 – the latest dataset available – there were 52 individuals incarcerated for shooting at or from a motor vehicle in violation of Section 30-3-8 NMSA 1978. Based on their admission dates and expected release dates, the Sentencing Commission estimates that the average length of stay for those individuals will be 6.6 years. It is difficult to determine what the effect of passing SB 35 would be on the state’s prison population, but its increased penalties for shooting at and from a motor vehicle would likely lead to more people being incarcerated by the Corrections Department for those offenses. The average cost to incarcerate someone in the state’s prison system is \$155.63/day; this average includes private and public facilities.

SB 35 also replaces “kidnapping resulting in great bodily harm” with “kidnapping resulting in physical injury or a sexual offense” in the definitions for the Criminal Sentencing Act, and thus the state’s three-strikes law. The bill does not provide a definition for “physical injury” or “sexual offense”, both of which could be interpreted to include a broad range of possible harms, which would potentially increase the number of individuals incarcerated and the duration of those sentences.

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