

FISCAL IMPLICATIONS

Senate Bill 35 proposes to separate the offenses of shooting at a motor vehicle and shooting from a motor vehicle, increase associated penalties, and amend relevant provisions in the Criminal Sentencing Act and Motor Vehicle Code. These changes could have fiscal implications for the judiciary, public defense, corrections system, and law enforcement agencies.

By increasing penalties for these offenses, SB35 may lead to a higher number of jury trials because defendants could be more likely to contest charges that carry lengthier sentences. This could increase demands on judicial resources, including judge and courtroom staff time, jury fees, and court-appointed defense services. Public defender caseloads could be affected, particularly in districts already experiencing high workloads. If trial rates increase significantly, additional resources may be required to support court operations and indigent defense services.

The bill also amends the state's "three strikes" law, classifying shooting at or from a motor vehicle as a violent felony that may contribute to enhanced sentencing for repeat offenders. This change could result in longer periods of incarceration and an increase in the prison population over time. As of June 30, 2024, 52 individuals were incarcerated for shooting at or from a motor vehicle under existing law, with an average estimated length of stay of 6.6 years.

Incarceration drives costs in the criminal justice system, so any changes in the number of individuals in prison and jail and the length of time served in prison and jail that might result from this bill could have moderate fiscal impacts. The creation of any new crime, increase of felony degree, or increase of sentencing penalties will likely increase the population of New Mexico's prisons and jails, consequently increasing long-term costs to state and county general funds.

The overall financial impact on the Corrections Department (NMCD) will depend on the number of new cases resulting from this legislation. Still, even a modest increase in convictions could lead to significant expenditures over time. The creation of any new crime, increase of felony degree, or increase of sentencing penalties will likely increase the population of New Mexico's prisons and jails, consequently increasing long-term costs to state and county general funds. In addition to the potential for new crimes to send more individuals to prison and jail, longer sentences could result in fewer releases relative to admissions, driving up overall populations. NMCD reports the average cost to incarcerate a single inmate in FY24 was \$59.3 thousand; however, due to the high fixed costs of the state's prison facilities and administrative overhead, LFC estimates a marginal cost (the cost per additional inmate) of \$28.2 thousand per year across all facilities. LFC staff estimate the cost to counties to hold an individual in jail prior to incarceration is \$19.2 thousand per year.

Additionally, the bill removes the requirement that "great bodily harm" must result to impose heightened penalties, replacing it with a broader "injury" standard. This could expand the number of cases qualifying for increased penalties, affecting the volume of felony prosecutions and potential sentencing outcomes. Law enforcement agencies may see additional administrative requirements related to vehicle seizure and license revocation provisions.

While the precise fiscal impact is difficult to quantify at this stage, the proposed changes could increase costs for multiple components of the criminal justice system, including the courts, public defense, corrections, and law enforcement. The extent of these impacts will depend on enforcement patterns, prosecution rates, and judicial case dispositions following the bill's enactment.

SIGNIFICANT ISSUES

By defining shooting at and shooting from a motor vehicle as separate offenses, the bill clarifies statutory language, potentially affecting charging decisions and legal interpretations. The removal of the “great bodily harm” requirement in favor of an “injury” standard may expand the range of cases eligible for higher penalties. This change aligns with recent judicial interpretations that emphasize punishing the act itself rather than the resulting harm but may also introduce variability in how injury is assessed in legal proceedings.

The amendments to the state’s habitual offender statute could affect sentencing outcomes for individuals with prior felony convictions. By classifying these offenses as violent felonies, the bill may increase the number of individuals eligible for enhanced sentencing under the three-strikes provision. The impact of these changes will depend on prosecutorial charging decisions and sentencing practices across judicial districts.

The bill also includes provisions for the seizure and forfeiture of motor vehicles used in these offenses and mandates revocation of driver’s licenses for those convicted. These measures may introduce additional administrative considerations for law enforcement agencies and the Motor Vehicle Division. The extent to which these provisions are utilized may depend on local enforcement practices and judicial discretion.

Overall, SB35 makes substantive changes to existing criminal statutes that could influence prosecution strategies, judicial caseloads, and sentencing trends. The long-term effects will depend on patterns of enforcement, the volume of cases prosecuted under the revised statutes, and judicial interpretations of the updated legal framework.

PERFORMANCE IMPLICATIONS

Senate Bill 35 may affect the performance of agencies involved in criminal case processing, particularly the judiciary, public defense, and corrections system. If the bill results in an increase in felony trials, courts may experience longer case disposition times, which could impact overall case clearance rates. The judiciary’s performance metrics, such as the percentage of cases disposed of within established timeframes, may be affected depending on the volume and complexity of cases proceeding to trial under the revised statutes.

For the Law Offices of the Public Defender, an increase in felony cases going to trial could influence attorney workload metrics and case resolution times. High caseloads in certain judicial districts may present challenges in meeting constitutional requirements for effective legal representation, potentially affecting case outcomes and appeals.

Changes to sentencing structures under SB35 could impact the classification and management of incarcerated individuals within the corrections system if the number of individuals sentenced under the revised penalties increases, correctional facility capacity and resource allocation may be affected. Performance measures related to inmate population management, program availability, and recidivism rates may need to be monitored to assess any long-term impacts.

Additionally, law enforcement agencies and the Motor Vehicle Division may see changes in workload related to the bill's vehicle seizure and license revocation provisions. Implementing these measures may require adjustments to administrative processes and tracking mechanisms to ensure compliance with statutory requirements.

TECHNICAL ISSUES

The Office of the Attorney General notes SB35 increases the penalties for offenses already subject to mandatory firearm sentencing enhancements under Section 31-18-16 NMSA 1978. The bill does not explicitly state whether these enhancements will still apply, which could lead to legal challenges regarding cumulative sentencing. Courts have previously addressed double jeopardy concerns in cases where firearm enhancements are applied to crimes that inherently involve the use of a firearm. If legislative intent is to retain the enhancement, clarifying language may be warranted to avoid ambiguity.

Additionally, the bill expands the definition of violent felonies under the state's three-strikes law but does not define "physical injury" or "sexual offense" in the context of kidnapping. The New Mexico Sentencing Commission notes this lack of specificity could lead to broader interpretations and varying applications of the statute. Without clear statutory definitions, courts may have differing interpretations of what qualifies as a violent felony under the new provisions.

A further potential issue concerns the bill's title. The Law Offices of the Public Defender points out, while SB35 is titled as addressing shooting at and from motor vehicles, it also makes substantive changes to the definition of kidnapping as a violent felony. The New Mexico Constitution requires the subject of every bill be clearly expressed in its title (Article IV, Section 16). If the scope of the bill extends beyond what is stated in the title, it could raise constitutional concerns that may need to be addressed through an amendment.

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