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FISCAL IMPACT REPORT

SPONSOR	Kintigh	ORIGINAL DATE LAST UPDATED		43
SHORT TITL	E Additional Serious	Violent Offenses	SB	
			ANALYST	Sánchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$50.0	\$50.0	\$100.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Companion to House Bill 31 and House Bill 44

SOURCES OF INFORMATION

LFC Files

Responses Received From
Adult Parole Board (APB)
Attorney General's Office (AGO)
New Mexico Corrections Department (NMCD)
Administrative Office of the Courts (AOC)
Administrative Office of the District Attorneys (AODA)
Sentencing Commission (NMSC)
Public Defender Department (PDD)

SUMMARY

Synopsis of Bill

House Bill 43 adds the attempt to commit any of the currently defined serious violent offenses, conspiracy to commit and criminal solicitation to commit to the list of serious violent offenses in Section 33-2-34 NMSA 1978.

FISCAL IMPLICATIONS

The Corrections Department reports an estimated three year cost increase of \$100 thousand.

The Administrative Office of the District Attorneys reports that it is likely that defendants facing classification as a serious violent offender may opt to go to trial versus taking a plea. If defendants go to trial, district attorneys and public defenders will impact caseloads. Additionally,

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defendants convicted of attempt, conspiracy or criminal solicitation of a serious violent offense will spend more time in prison because they will no longer be allowed to earn meritorious good time at 30 days per month.

The Public Defender reports that the slight increase in trials would be absorbed by the department.

The Sentencing Commission reports that on June 30, 2011, the NMCD had On June 30, 2011, 215 offenders committed to the custody of the NM Corrections Department had a conviction for attempt, conspiracy or solicitation to commit a serious violent offense as their highest charge. That number represented approximately 3% of the total inmate population on that same date (6,598). If HB 43 becomes law, at some point in the future the increased length of stay for those offenders would begin to impact the state inmate population.

The Adult Parole Board reports that the bill does not address the potential increase in the prison population resulting from the reduction of earned meritorious deductions. As for the Parole Board, it would see no discernable fiscal impact. The Board would hear the cases at a later date.

SIGNIFICANT ISSUES

According to the NMCD, if this and other bills are enacted into law the department will reach its rated capacity for its prison population and one of three options will have to be sought: 1) house inmates out of state, 2) release prisoners early or 3) build new or expand existing prisons.

PERFORMANCE IMPLICATIONS

Increases in the inmate population could impact inmate-on-inmate or inmate-on-staff assaults, and the community offender management performance measure of "percent of out-of-office contacts per month with offenders on high and extreme supervision on standard caseloads".

The courts anticipate the bill will impact two of the district courts performance measures:

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

ADMINISTRATIVE IMPLICATIONS

The bill has the potential of increasing correctional officer and probation and parole officer workloads, increase the cost of the care and support of inmates.

According to the NMCD, current staffing levels and increases in the population will negatively impact the department's ability to effectively perform prison and probation/parole supervision services.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Similar to House Bill 31 which amends the time limitation for certain crimes, and House Bill 44 which adds to the definition of serious felonies.

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AMENDMENT NEEDED TO IMPROVE THE BILL

According to the Attorney General's Office, an effective date is needed that could be based on the date of the crime, conviction of the crime or sentencing. Adding such a provision would avoid the issue of applicability and challenges on appeal.

ABS/lj