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FISCAL IMPACT REPORT

ORIGINAL DATE 02/03/12

SPONSOR Cook LAST UPDATED _____ HB 247

SHORT TITLE Additional Violent Felonies SB _____

ANALYST Sánchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total			NFI	NFI*	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

***Fiscal impact to the state will likely begin after FY14 and is dependent on the number of convictions.**

Relates to HB87 and HB43; partially duplicates HB87, duplicates HB150

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General’s Office (AGO) Response to HB150

New Mexico Corrections Department (NMCD) Response to HB150

Administrative Office of the Courts (AOC) Response HB150

New Mexico Sentencing Commission (NMSC)

SUMMARY

Synopsis of Bill

House Bill 247 would require attempt to commit murder in the first or second degree to be treated as mandatory, non-discretionary serious violent offenses for purposes of the earned meritorious deductions Act. A defendant incarcerated pursuant to a conviction for either of the aforementioned offenses would have to serve 85 percent, rather than 50 percent, of the sentence in custodial confinement.

FISCAL IMPLICATIONS

According to the Administrative Office of the Courts (AOC), any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase. Additionally,

the number of cases which would result in plea agreements may decrease because of this enhanced penalty. This means there would be more jury trials and would negatively affect the jury fund

The New Mexico Corrections Department (NMCD) reports that should the Legislature and the Governor determine that it is appropriate to pass this bill, the NMCD's prison population is not likely to be effected during the relevant three year fiscal period. However, in subsequent years, as these serious violent offenders serve 85 percent of their sentences instead only 50%, the NMCD's inmate population will begin to increase and at some point will reach its rated or maximum capacity.

According to the NMCD, the classification of an inmate determines his or her custody level, and the incarceration cost varies based on the custody level and particular facility. The cost to incarcerate a male inmate ranges from an average of \$36,700 per year in a state owned/ operated prison to \$30,093 per year in a contract/private prison (where primarily only level III or medium custody inmates are housed). The cost to house a female inmate at a privately owned/operated facility is \$32,408 per year. Because the capacities of medium and higher custody state owned prisons are essentially at capacity, any net increase in inmate population will likely have to be housed at a contract/private facility.

SIGNIFICANT ISSUES

The Attorney General's Office states that one colorable challenge could be that this bill, if enacted, would treat cases where a defendant has attempted to commit murder, but has failed to physically harm the victim, as serious violent offenses. This would be in contrast to numerous discretionary serious violent offenses that also involve no actual physical harm to victims (for example: aggravated assault).

PERFORMANCE IMPLICATIONS

This bill may have an impact on the measures of the district courts in the following areas:

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

ADMINISTRATIVE IMPLICATIONS

The NMCD reports that this bill would negatively impact the Department's ability to perform prison-related services (with current levels of staffing) if it eventually substantially increases the NMCD prison population. If the bill eventually results in significant increases in the NMCD prison population, it will increase the workloads of current prison staff.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill covers some but not all of the same offenses as found in HB43.

Relates to HB87 however they do not contemplate treating the same offenses as serious violent offenses for purposes of EMDA.

TECHNICAL ISSUES

Include conspiracy to commit first degree murder as a mandatory, non-discretionary serious violent offense.

ABS/svb