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FISCAL IMPACT REPORT

ORIGINAL DATE 2/13/15

SPONSOR Maestas LAST UPDATED 3/3/15 HB 332/aHJC

SHORT TITLE Reduce Probation Time For Good Behavior SB _____

ANALYST Chenier

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Fiscal Implications	See Fiscal Implications	See Fiscal Implications	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Corrections Department (NMCD)
 Public Defender Department (PDD)
 Administrative Office of the Courts (AOC)
 Administrative Office of the District Attorneys (AODA)
 Crime Victims Reparations Commission (CVRC)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment to House Bill 332, would allow for every 30 days spent on supervised probation without a violation, to have 30 days of supervised probation changed to unsupervised probation, after one year served on supervised probation. This would be allowed as long as the probationer is not on parole and has not had time on parole credited toward probation time.

Synopsis of Original Bill

House Bill 332 would amend Section 31-20-5 NMSA 1978, the statute governing probation, proposing to allow for good time credit to be earned by a probationer. The bill proposes that for every thirty days served without a probation violation, the probationer shall have thirty days removed from the period of probation.

FISCAL IMPLICATIONS

NMCD stated that there will be an administrative impact on the agency to track time left in probation terms. Additional FTEs will be needed in order to track the awards of good time for

hundreds or thousands of probationers.

At the same time, there may be a reduction in costs to NMCD due to a decrease in the number of probationers serving time. The average cost per day per parolee/probationer is \$7.62. It is difficult to estimate how much of a reduction in probationers there would be.

SIGNIFICANT ISSUES

NMCD provided the following:

NMCD already has in place a policy and procedure, CD-051500 and 051501, PPD Review of Offender Progress for Early Termination Consideration, which allows NMCD to ask the sentencing judge to terminate the probation supervision early if the offender has served at least half of his supervision period, is on medium to low supervision, has paid all restitution, and has no full violation reports in the past year prior to the request and no preliminary or intermediate sanctions on record within 6 months of the request. Additionally, under the policy, sex offenders, murderers, and certain other designated offenders (felony DWI, armed robbery, child abuse GBH, etc.) are not eligible for early termination consideration by the sentencing judge.

The AOC provided the following:

Despite the HJC amendment to HB 332, providing for a reduction in supervised probation, to be changed to unsupervised probation, rather than the original HB 332's reduction in any probation, the proposed language is still mandatory and still takes authority away from the sentencing judge. The court sets the initial terms of probation. The court issues a warrant for the arrest of a probationer for violations of the conditions of probation and the court is required to hold a hearing on the violation charged.

HB 332a does not provide for the participation of the court in granting the supervised probation period reductions or reviewing the same, or even being advised of the same, despite the court's active participation in these other aspects of probation. Additionally, some periods of probation are set to coincide with compliance timetables. Mandatory DV intervention is one such circumstance. Also, the legislature has placed great emphasis in the past on the creation and funding of Specialty Courts in New Mexico, including drug, mental health, domestic violence, and homeless courts. The efficacy of these courts in addressing the special needs of offenders who qualify for inclusion in their programs, as well as in addressing their recidivism rates, has been well documented. A defendant's mandatory inclusion by the court in a specialty program may require participation for a prescribed time period. If a person's period of supervised probation is automatically reduced for good behavior, there is a question as to whether court-ordered participation time in a specialty program would also be reduced, thus reducing the efficacy of the courts' specialty programs?

AODA stated that Changing probation from supervised to unsupervised implies the defendant is still subject to correction and having their remaining sentence imposed in the event of violation. However, offenders will have to be made to understand they are still under whatever conditions, not involving supervision, were imposed by the court (e.g., paying restitution, remaining away from victims/witnesses, etc.