



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

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

##### Synopsis:

HB 102 amends Section 33-2-34 NMSA 1978, regarding eligibility for earned meritorious deductions, by stipulating that all violations of Section 66-8-101, homicide by vehicle, could be classified as a “serious violent offense”. Under present statute, only third degree homicide by vehicle or great bodily harm by vehicle in Section 66-8-101 are part of the list of offenses that can be classified as a serious violent offense if the nature of the offense and the resulting harm are such that the court judges the crime to be a serious violent offense for the purpose of the earned meritorious deduction statute.

#### **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**

HB 102 would widen the scope of crimes that could potentially be considered a serious violent offense under the Earned Meritorious Deductions statute (Section 33-2-34 NMSA 1978). The EMD statute lists a series of crimes that are automatically considered a serious violent offense (see Section 33-2-34(L)(4)(a) through (n), and then has a list of 15 crimes that might be considered a serious violent offense, at the judge’s discretion (see Section 33-2-34(L)(4)(o)).

The EMD statute allows individuals incarcerated in prison to earn good-time from their sentences at a rate specified in the statute based on the severity of their charges. For a basic sentence for those convicted of a serious violent offense, the amount of deducted time is four days per month (defined as 30 days). Those convicted of a nonviolent offense can earn 30 days per month. Thus, serious violent offenders are expected to serve approximately 87% of their prison sentence, and those convicted of other offenses are expected to serve approximately 50% of their prison sentence. Under the statute, incarcerated individuals may also earn additional “lump-sum” meritorious deductions by completing approved vocational, substance abuse, or mental health programs, by earning educational degrees, or for a heroic act.

The Sentencing Commission published a report each year on the use of earned meritorious deductions, alternating each year between an analysis of the male and the female populations. The most recent report “Time Served in New Mexico Prisons, FY 2023: Analysis of the Impact of Earned Meritorious Deductions for Male Offenders” (available at <https://nmsc.unm.edu/reports/2024/time-served-in-new-mexico-prisons-fy-2023-analysis-of-the-impact-of-earned-meritorious-deductions.pdf>) determined that male serious violent offenders with a basic sentence served 87.7% of their prison sentence and 89.3% of their total sentence.

It is difficult to determine what the effect of passing HB 102 would be on the state's prison population, as HB 102 adds crimes to the discretionary part of the EMD statute. Potentially, HB 102 could see people convicted of the expanded serious violent offenses serve more time incarcerated by the Corrections Department. The average per day cost to incarcerate someone in the state's prison system is \$155.63/day; this average includes private and public facilities.

## **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**