



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

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

##### Synopsis:

HB 278 amends Section 30-2-3 NMSA 1978, regarding manslaughter, to exclude “any conduct in the course of or during an escape from the commission of any felony offense or while resisting a lawful arrest” from being considered a “sudden quarrel” or “the heat of passion” as elements of voluntary manslaughter.

#### **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 278’s exclusion of “any conduct in the course of or during an escape from the commission of any felony offense or while resisting a lawful arrest” from satisfying the elements of voluntary manslaughter means that homicides that occur under those circumstances may be charged only as either first degree murder (if the mens rea element is satisfied or if the homicide occurs in the commission of a felony offense (felony murder)), second degree murder (if the mens rea element is satisfied), or involuntary manslaughter (if the elements of that offense are met).

HB 278 would not prevent “sudden quarrel” or “the heat of passion” from being used as affirmative defenses to second degree murder, as the bill does not remove those defenses from Section 30-2-1(B) NMSA 1978. The bill would only prevent that conduct from qualifying as voluntary manslaughter.

The basic sentence for voluntary manslaughter under Section 31-18-15 NMSA 1978 is six years imprisonment. If the conduct in question qualifies as first degree murder (including under a felony murder theory), then the sentence would be life imprisonment with or without the possibility of parole. If the conduct qualifies as second degree murder and the affirmative defenses are unsuccessful, the basic sentence would be 18 years imprisonment. Either of these outcomes would significantly increase the penalty for the conduct. However, if the conduct does not meet the elements for first or second degree murder, the basic sentence for involuntary manslaughter – if the conduct in question satisfies the elements of that offense – would be 18 months imprisonment. Involuntary manslaughter does not include conduct committed in the commission of a felony, so, of the circumstances described in HB 278, it would only apply in instances of resisting lawful arrest.

Given the broad range of possible sentencing outcomes, it is difficult to say what effect, if any, HB 278 would have on the state’s prison population. 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**