

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 525 amends Section 33-2-34 NMSA 1978, regarding eligibility for earned meritorious deductions, by adding second degree homicide by vehicle to the list of offenses that the court can optionally determine is a serious violent offense, when the nature of the offense and the resulting harm are such that the court judges the crime to be a serious violent offense for determining the rate for earning earned meritorious deductions.

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 525 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 525 would be on the state's prison population, as HB 525 adds crimes to the discretionary part of the EMD statute. Potentially, HB 525 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

SB 359 covers the same areas of law as HB 309 and HB 332.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS