

LFC Requester:	
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**AGENCY BILL ANALYSIS
2015 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date 1-10-16
Bill No: HB46

Sponsor: Rod Montoya
Short Title: Sentencing for Certain Felonies

Agency Code: 264
Person Writing Gail MacQuesten
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		
0	0	n/a	n/a

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		
0	0	0	n/a	n/a

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	minimal	minimal	minimal	unknown	recurring	general

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB46 amends Section 31-18-15 NMSA 1978, the statute governing sentencing authority for noncapital felonies.

HB46 increases the basic sentence for a second degree felony resulting in the death of a human being from fifteen years to twenty years imprisonment, and increases the basic sentence for a third degree felony resulting in the death of a human being from six years to twelve years imprisonment. HB46 also deletes a reference to Section 31-18-16.1 NMSA 1978, a statute that has been repealed.

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.

To the extent HB46 results in longer periods of incarceration, there will be increased costs to the state. It is unknown whether HB46 will have a significant fiscal impact for the district attorneys, although it could impact the ability of the district attorneys to obtain plea bargains. See discussion under Performance Implications, below.

SIGNIFICANT ISSUES

HB46 raises the basic sentence for second and third degree felonies that result in the death of a human being.

Note that under HB46, the basic sentence for a second degree felony resulting in the death of a human being will be twenty years, which is longer than the basic eighteen year sentence for a first degree felony (higher penalties apply for first degree felonies resulting in death and for first degree felonies for aggravated criminal sexual penetration.) Similarly, the basic sentence for a third degree felony resulting in the death of a human being will be 12 years, which is longer than the basic nine year sentence for a second degree felony (higher penalties apply if the second degree felony results in the death of a human being). Although it seems counter-intuitive that a second degree felony would carry a higher penalty than a first degree felony, and that a third

degree felony would carry a higher penalty than a second degree felony, this structure simply recognizes that crimes resulting in the death of a human being should receive longer sentences than crimes that do not result in the death of a human being.

PERFORMANCE IMPLICATIONS

Changes in the sentencing statute can affect the likelihood of obtaining a plea bargain. A defendant charged with murder may be less willing to plead to second degree murder if he faces 20 years instead of 15 on the second degree murder charge. However, in general, higher possible sentences increase the possibility that the defendant will enter a plea, because the higher the possible penalty is, the greater risk the defendant faces in going to trial.

ADMINISTRATIVE IMPLICATIONS

None, for the district attorneys.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None noted.

TECHNICAL ISSUES

See Significant Issues, above.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

None noted.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The existing penalties for second and third degree felonies resulting in the death of a human being will remain unchanged.

AMENDMENTS

None proposed.