

<b>LFC Requester:</b>	<b>Eric Chenier</b>
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**AGENCY BILL ANALYSIS  
2013 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**      X   **Amendment**            
**Correction**           **Substitute**          

**Date** 01/22/2013  
**Bill No:** HB123--305

**Sponsor:** Rep. Zachary J. Cook  
**Short**        VIOLENT OFFENSES FOR  
**Title:**        PRISON TIME

**Reviewing**        Attorney General's Office  
**Person Writing**        Trevor A. Rigler, AAG  
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**SECTION II: FISCAL IMPACT \*\*\*\*FOR LFC OFFICIAL PURPOSES\*\*\*\***  
**AGO STAFF SHOULD LEAVE SHAGED AREAS BLANK**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

**SECTION III: NARRATIVE**

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Opinion Letter. This is a staff analysis in response to the agency’s committee’s or legislator’s request.

**BILL SUMMARY**

Summary Synopsis:

HB 123, if enacted, would amend §33-2-34 NMSA (“Eligibility for earned meritorious deductions”) as follows:

1. The bill clarifies the nature of a “heroic act” which might affect an incarcerated person’s earned meritorious deductions.
2. The bill clarifies language regarding the inapplicability of earned meritorious deductions to sentences of life imprisonment in the wake of the recent repeal of the death penalty.
3. The bill adds first degree murder, abuse of child resulting in death or great bodily harm, vehicular homicide, and great bodily harm by vehicle while under the influence of intoxicating liquor or drugs to the list of crimes that must be treated as serious violent offenses for purposes of earned meritorious deductions.
4. The bill clarifies that first, second, and third degree child abuse resulting in death or great bodily harm may not be considered as possible non-serious violent offenses for purposes of earned meritorious deductions.
5. The bill replaces the term “injury” with “harm” as it relates to DWI-related crimes which may be considered as possible non-serious violent offenses for purposes of earned meritorious deductions.

**FISCAL IMPLICATIONS WITH ENACTING THIS BILL**

If enacted into law, the bill could result in prisoners convicted of certain offenses serving a longer portion of their sentences.

**SIGNIFICANT LEGAL ISSUES**

This bill is narrowly-drafted and makes only minor changes to existing law regarding earned meritorious deductions. Some of its changes are reflections of recent changes to law. As such, there is little fodder for objection.

Historically, but not apparently by design, crimes classified as serious violent offenses for purposes of earned meritorious deductions have an intent component. Imposing serious violent offense status on crimes associated with death or great bodily harm caused by vehicle could be challenged on the basis that the offender did not intend the logical consequence of his or her actions and therefore should not face the same structure of incarceration time as that of a

traditional violent offender. However, other states categorize offenses involving death and great bodily harm caused by vehicle as the equivalent of serious violent offense. The focus is on the violence of the actual harm, not on the intent to employ violence on the part of the offender.

**PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL**

None

**ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL**

None

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS INTRODUCED THIS SESSION**

HB84 – “UNBORN VICTIMS OF VIOLENCE ACT” (Larry A. Larrañaga), which would create new offenses for crimes causing death or great bodily harm to unborn victims.

HB97 – “HOMICIDE & GREAT BODILY HARM BY BOAT” (Dennis J. Roch), which would create new offenses for crimes involving causing death or great bodily harm by boat.

**TECHNICAL ISSUES OR DRAFTING ERROR**

None

**OTHER SUBSTANTIVE LEGAL ISSUES**

None

**ALTERNATIVES TO ENACTING THIS BILL**

None

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo

**AMENDMENTS NEEDED TO IMPROVE THIS BILL**

None