

<b>LFC Requester:</b>	<b>Theresa Rogers</b>
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**AGENCY BILL ANALYSIS  
2016 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

**[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)**

*and*

**[DFA@STATE.NM.US](mailto: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      
Sen. J. Zimmerman;

Date 2/3/16  
Bill No: HB 305

Sponsor: Sen. A. Baldonado    Agency Code: 305  
Short    Additional Felonies for Prison    Person Writing    Nicholas K. Gilbert  
Title:    Earned Time    Phone: 827-6716    Email ngilbert@nmag.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: none.  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

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

**Synopsis:**

The Earned Meritorious Deductions Act (§33-2-34, NMSA 1978) (hereinafter Act) currently allows persons convicted of non-violent offenses to earn a thirty (30) day meritorious deduction for every thirty (30) days of incarceration; allows persons convicted of serious-violent offenses—enumerated in §33-2-34(L)(4)—to earn a four (4) day meritorious deduction for every thirty (30) days incarcerated; and precludes persons sentenced to life in prison from earning meritorious deductions. Additionally, the Act allows a court to determine whether crimes enumerated in §33-2-34(L)(4)(r) (hereinafter optional serious violent offenses) should be serious violent offenses for the purposes of earned deductions based on the nature of the offense and resulting harm. HB 305 amends §33-2-34 in the following ways:

- 1) Allows serious youthful offenders convicted of first-degree murder to earn a four (4) day meritorious deduction for every thirty (30) days incarcerated—Section 33-2-34(G) currently precludes first-degree murders, including serious youthful offenders, from earning meritorious deductions;
- 2) Moves homicide by vehicle and great bodily harm by vehicle while under the influence of intoxicating liquor or drugs (§66-8-101) from optional serious violent offenses to serious violent offenses;
- 3) Adds injury to a pregnant woman by vehicle (§66-8-101.1) to the list of serious violent offenses; and
- 4) Adds the language “that does not result in death or great bodily harm” to the optional serious violent offense of first, second, or third degree child abuse.

**FISCAL IMPLICATIONS**

**SIGNIFICANT ISSUES**

By adding the language “that does not result in death or great bodily harm” to the optional serious violent offense of first, second, or third degree child abuse, child abuse resulting in great bodily harm is removed as an optional serious violent offense and becomes, by default, a non-violent offense as described in §33-2-34(L)(3).

**PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

## **TECHNICAL ISSUES**

First degree child abuse always results in death or great bodily harm, thus rendering the addition of “that does not result in death or great bodily harm” to first degree child abuse meaningless.

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

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

Status quo.

## **AMENDMENTS**

The drafters may wish to consider the language “first, second and third degree abuse of a child, as provided in Section 30-6-1 NMSA 1978, that does *or does not* result in death or great bodily harm.” In the alternative, the drafters may wish to exclude the proposed language “that does not result in death or great bodily harm.” This would achieve the same result.