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FISCAL IMPACT REPORT

SPONSOR: Nava DATE TYPED: 03/02/01 HB _____
 SHORT TITLE: Criminal Offenders Seeking School Employment SB 651
 ANALYST: Valdes

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
			See Fiscal Implications section		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Relates to Appropriation in The General Appropriation Act _____

SOURCES OF INFORMATION

Administrative Office of the Courts
 Attorney General
 State Department of Education

SUMMARY

Synopsis of Bill

Senate Bill 651 amends Section 28-2-4 NMSA to allow the refusal, renewal, suspension, or revocation of public employment or license when an applicant, employee or licensee has been convicted of murder in the first degree, murder in the second degree, voluntary manslaughter, or kidnapping. The bill also provides for the denial, suspension or revocation of employment to an individual seeking a teaching certificate or employment with the public schools when an individual has been convicted of a felony or a misdemeanor involving moral turpitude, regardless of rehabilitation, and has not completed the term of probation or parole, not satisfied the conditions of probation or parole, or is a fugitive from justice in another jurisdiction.

Significant Issues

Current law favors rehabilitation of individuals with criminal involvement and generally bars governmental denial of employment or licensure on the basis of a criminal conviction. The result of current law is that the State Department of Education cannot refuse to license and public schools cannot refuse to employ individuals solely on the basis of their not having completed their probation or parole

or who are fugitives from justice. This means permitting individuals with a clear and present criminal connection to have unsupervised access to children. This bill allows denial, suspension or revocation of employment to an individual seeking a teaching certificate or employment with the public schools when an individual has been convicted of a felony or a misdemeanor involving moral turpitude. School safety would be improved if this bill is enacted.

FISCAL IMPLICATIONS

No impact on public education. Fiscal impact to the judiciary would be proportional to the enforcement of this law. New Laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

ADMINISTRATIVE IMPLICATIONS

There may be an administrative impact on the courts as the result of an increase in caseload and/or in the amount of time to dispose of cases.

TECHNICAL ISSUES

The State Department of Education points out that line 7 of page 3 uses the term "another jurisdiction" which could be interpreted to *exclude* an applicant who is on probation or parole or is a fugitive from justice for a New Mexico offense. This possible interpretation would gut the intended effect of the entire bill. It could be clarified as follows: "justice in ~~another~~ any jurisdiction."

OTHER SUBSTANTIVE ISSUES

The Attorney General states there may be a constitutional issue regarding the meaning of some of the terms in the bill, although, specific information was not provided by their analysis. Senate Bill 651 effectively denies people the right to seek employment in specific fields if they have been convicted of certain crimes. One of the crimes that makes a person ineligible for employment in public education or for a teacher's certificate is a crime of "moral turpitude." This is often a point about which people take issue because the term is not susceptible to precise definition. However, the New Mexico courts have repeatedly ruled on the phrase "moral turpitude" and have not had difficulty determining what crimes fit into the definition. *See In re Termination of Kibbe*, 128 N.M. 629, 996 P.2d 419 (2000).

MV/sb