

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 2/5/07
 LAST UPDATED 3/5/07

SPONSOR Martinez HB _____

SHORT TITLE Substance Abuse & Crime Prevention Act SB 620/aSPAC/aSJC

ANALYST C.Sanchez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Corrections Department (CD)

Public Defender

Department of Public Safety (DPS)

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment strikes language that repealed a section of the controlled substance act. All other changes are technical.

Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment strikes “shall” and inserts in lieu thereof “may”.

Synopsis of Original Bill

Senate Bill 620 requires sentencing courts to stay the criminal proceedings of a person charged with possession of a controlled substance (if that person had no or only one prior conviction for possession of a controlled substance) and to refer the person to a substance abuse treatment program for a period of one year or less. If the person completes the program and does not

violate any of the conditions of participation set by the court, the court shall dismiss the criminal proceedings against the person. However, if the person violates the terms and conditions of participation in the program, the court may reinstate the criminal proceedings against him and proceed accordingly.

FISCAL IMPLICATIONS

The contract/private prison annual cost of incarcerating an inmate is \$23,867 per year for males. The cost per client to house a female inmate at a privately operated facility is \$21,651 per year. Because state owned prisons are essentially at capacity, any net increase in inmate population will be housed at a contract/private facility.

The cost per client in Probation and Parole for a standard supervision program is \$1,467 per year. The cost per client in Intensive Supervision programs is \$3,383 per year. The cost per client in department-operated Community Corrections programs is \$3,503 per year. The cost per client in privately-operated Community Corrections programs is \$7,917 per year. The cost per client per year for male and female residential Community Corrections programs is \$39,401.

The bill could reduce the number of possession convictions by diverting the offenders to treatment, and could thus reduce the prison population and probation/parole caseloads by a minimal to moderate manner. It is difficult to determine how many individuals are sentenced to prison just for possession of a controlled substance. To the extent that a large number of offenders would otherwise be sentenced to prison, this bill could provide a legitimate alternative to incarceration.

Senate Bill 620 could also slightly reduce the revenues (parole and probation supervision fees) of the Corrections Department, as persons previously placed on probation or parole for possession crimes would now receive treatment in lieu of probation or parole.

SIGNIFICANT ISSUES

Senate Bill 620 excludes the following from its scope: Persons convicted of a violent felony within three years of the possession charge, persons sentenced to a term of incarceration that would prevent the person from participating in the treatment program, and persons charged with possession at the same time they are charged with another felony offense or a DWI.

The bill only applies to possession of a controlled substance, which is not a felony crime unless the person possesses eight or more ounces of marijuana or possesses certain designated controlled substances (such as phencyclidine, methamphetamine, and narcotics). It does not apply to charges of trafficking a controlled substance.

PERFORMANCE IMPLICATIONS

Senate Bill 620 could reduce the prison population and probation/parole caseloads, thereby giving the Corrections Department more time and resources to devote to existing prisoners, probationers and parolees. This could enable the Department to improve its prison-related and probation/parole supervision services.

CONFLICT,

Repeals NMSA § 30-31-28 1978. (Possession of a controlled substance prohibited).

TECHNICAL ISSUES

The bill is unclear if the state will pay for such treatment options or the individual with pending charges is responsible for payment.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

CS/mt