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FISCAL IMPACT REPORT

ORIGINAL DATE 01/18/13
SPONSOR Lewis LAST UPDATED _____ HB 31
SHORT TITLE DWI Convictions for Sentencing SB _____
ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0.0	\$480.5	\$464.25	944.75*	Recurring	General

(Parenthesis () Indicate Expenditure Decreases)

*The fiscal impact includes only the anticipated needs of the Public Defender Department. Additional costs for prosecution and incarceration are not expressed in the above estimated budget impact.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
New Mexico Sentencing Commission (NMSC)
Public Defender Department (PDD)
New Mexico Corrections Department (NMCD)

SUMMARY

Synopsis of Bill

House Bill 31 would amend the habitual offender statute to require that a felony DWI conviction be considered a predicate felony offense that must be used in determining if the person is a habitual offender. Under the current habitual offender statute, persons convicted of more than one noncapital felony are considered habitual offenders whose basic sentences can be enhanced for subsequent felony convictions. Under the current law, felony DWI convictions are expressly excluded for purposes of sentence enhancement under the Habitual Offender Act.

FISCAL IMPLICATIONS

The Public Defender Department anticipates that the passage of this legislation would result in an increased demand for trials for felony DWI offenses. The department assumes that a 6 percent increase in demand for trials will lead to the need to hire an additional 6.5 attorney FTE to handle the increased workload.

SIGNIFICANT ISSUES

According to the New Mexico Sentencing Commission, as of June 30, 2012, 292 offenders committed to the custody of the NM Corrections Department (NMCD) had a felony DWI conviction as their highest charge. That total includes new admissions for a felony DWI conviction and offenders returned to prison whose original conviction was for a DWI offense.

The New Mexico Corrections Department has stated that passage of House Bill 31 may impact NMCD in subsequent years, as offenders convicted of two or more felony DWI offenses or two or more other felony offenses start being sentenced to NMCD to serve longer prison sentences as habitual offenders. At some point in the future, these longer or enhanced prison sentences could potentially impact NMCD's inmate population although any resulting fiscal impact cannot be accurately predicted.

The District Attorneys did not provide an estimated cost for any additional prosecutions which may result from passage of this legislation.

OTHER SUBSTANTIVE ISSUES

Offenders already in the NMCD's custody will not be impacted by the proposed enhanced sentences proposed in this bill. At some point in the future, enactment of this bill will result in longer prison sentences for felony DWI offenders. Increased length of stay may impact the state prison population.

NCJ/svb