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FISCAL IMPACT REPORT

ORIGINAL DATE 1/25/17

SPONSOR Rehm LAST UPDATED _____ HB 19

SHORT TITLE Use of Firearm Sentencing Enhancements SB _____

ANALYST Sánchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY7	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Indeterminate Increase	Indeterminate Increase	Indeterminate Increase	Recurring	General Fund/Other State Funds

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB13

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Administrative Office of the District Attorneys (AODA)
 Attorney General’s Office (AGO)
 New Mexico Corrections Department (NMCD)
 Public Defender Department (PDD)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

House Bill 19 proposes to amend Section 31-18-16 NMSA 1978 to increase the basic imprisonment from one year to five years if a firearm is used in the commission of a noncapital felony; and increases the time of imprisonment for a second or subsequent noncapital felony from three years to seven years.

FISCAL IMPLICATIONS

The Administrative Office of the Courts (AOC), the Administrative Office of the District Attorney (AODA) and the Public Defender Department (PDD) state that HB19 may have minimal fiscal impact, however, an increase of these cases may require additional resources.

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Although it is difficult to accurately estimate the cost of increased trials because of this or similar legislation, it is important to note that the average salaries, benefits and other costs (in thousands) yearly for the district courts, district attorneys and public defenders are as follow:

- PDD: \$ 86.5
- District Attorneys: \$ 70.1
- District Courts: \$335.6

The PPD reports that it costs more to defend higher-penalty felony cases and it is more likely for those cases to go to trial. Additional higher penalty trials may require PPD to hire more attorneys.

Although the New Mexico Corrections Department's (NMCD) budget may not be negatively impacted in FY17 or FY18, it will be impacted if this bill becomes law: increased length of stay will increase the cost to house an offender in prison. The average cost to incarcerate one inmate over the last four years has increased 4.6 percent.

Enhanced sentences over time will increase the population of New Mexico's prisons and long-term costs to the general fund. According to the NMCD, the cost per day to house an inmate in state prison (public and private combined) is an average of \$123 per day, or about \$44,776 per year. Increased length of stay would increase the cost to house the offender in prison. In addition, sentencing enhancements could contribute to overall population growth as increased sentence lengths decrease releases relative to the rate of admissions pushing the overall prison population higher. NMCD's general fund budget, not including supplemental appropriations, has grown by an average \$9.5 million per year, or three percent, since FY14 as a result of growing prison population and inmate needs.

The LFC, in its appropriation recommendation reports that NMCD had a projected deficit of \$9.9 million in FY16.

SIGNIFICANT ISSUES

According to the Administrative Office of the Courts (AOC), sentence enhancements are designed to deter crime, making it less likely that a person will commit a crime, either as a first time or repeat offender.

PPD cites *State v. Griffin*, 1993-NMSC-071, 116 N.M. 689 to show that firearm enhancement for sentences under New Mexico law is mandatory and do not violate protections against double jeopardy.

PERFORMANCE IMPLICATIONS

This bill may have an impact on the following performance measures:

- NMCD:
 - Percent of prisoners reincarcerated back into the corrections department within thirty-six months due to technical parole violations;
 - Percent of prisoners reincarcerated back into the corrections department system within thirty-six months due to new charges or pending charges;

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- Percent of inmates testing positive for drug use or refusing to be tested in a random monthly drug test;
- Percent of sex offenders reincarcerated back into the corrections department within thirty-six months; and
- District Courts:
 - Cases disposed of as a percent of cases filed;
 - Percent change in case filings by case type;
- District Attorneys:
 - Average caseload per attorney;
 - Number of cases prosecuted; Number of cases prosecuted per attorney;
- Public Defenders:
 - Percent of cases taken by contract attorneys;
 - Percent of cases that go to trial with clients defended by contract attorneys.

RELATIONSHIP

Relates to HB13 Three Strikes Law

OTHER SUBSTANTIVE ISSUES

NMCD suggests that HB19 may deter criminal activity of previously convicted felons.

ABS/jle/al