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FISCAL IMPACT REPORT

ORIGINAL DATE 02/24/17

SPONSOR Rehm LAST UPDATED 02/27/17 HB 488

SHORT TITLE DWI With Revoked License Penalties SB _____

ANALYST Sánchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Indeterminate Increase	Indeterminate Increase	Indeterminate Increase	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates HB271, HB22, HB49, HB74, HB300, HB31, SB136, HB129, SB174, SB238

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Public Defender Department (PDD)
 Administrative Hearing Office (AHO)
 New Mexico Department of Transportation (NMDOT)

SUMMARY

Synopsis of Bill

House Bill 488 amends Section 66-5-39 NMSA 1978 creating a fourth degree felony if a person drives under the influence of intoxicating liquor or drugs and that person's driver's license is suspended or revoked because of a DWI conviction or if the person is in violation of the Implied Consent Act.

FISCAL IMPLICATIONS

The Administrative Office of the Courts (AOC) notes that as penalties become more severe, defendants may invoke their right to trial and their right to trial by jury. More trials and more jury trials will require additional judge time, courtroom staff time, courtroom availability, and jury fees. The courts are currently struggling to maintain the jury fund to pay jurors for their service under the current laws. Increasing the number of high penalty cases would further strain this fund without the additional resources necessary to handle the increase. These additional costs are not capable of quantification.

PDD states any increase in the number of felony prosecutions would bring a concomitant need for an increase in indigent defense funding.

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 yearly, in thousands, for the district courts, district attorneys and public defenders are as follow:

- District Attorneys: \$195.4
- District Courts: \$335.6
- PDD: \$202.7

LFC files show that the jury and witness fund shortfall for FY17 is estimated to be \$609 thousand even with a reduction in the hourly rate below the federal minimum rate of \$6.25 per hour. The FY16 shortfall was \$994.5 thousand.

PERFORMANCE IMPLICATIONS

One of NMDOT’s performance measures is the reduction of alcohol related traffic crashes, injuries and fatalities. The provisions in HB488 have the potential of reducing DWI-related deaths and injuries. Increasing penalties for DWI offenders that drive with a suspended or revoked license would likely reduce recidivism by providing a deterrent to such actions. This will have a positive impact on NMDOT’s performance measure, and more importantly on the public driving on New Mexico roadways.

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

- Cases disposed of as a percent of cases filed.
- Percent change in case filings by case type.

ADMINISTRATIVE IMPLICATIONS

According to PDD, the workload in some offices is so heavy that lawyers have been required to move to withdraw from new cases to provide constitutionally mandated effective assistance of counsel to their existing clients.

AOC states that Rules 11-403 and 11-404, NMRA 2016 prohibit the introduction of evidence which may be unfairly prejudicial, confuse the issues, mislead the jury, or show that the defendant previously committed other crimes or wrong acts in conformity with the crime being currently alleged. The introduction of evidence of driving on a suspended or revoked license for DWI in the same trial as a concurrent DWI charge may be contrary to these rules. To avoid these issues, these charges are often tried separately.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates HB271 Driving Under Influence of Liquor or Drugs; HB22 DWI for Certain Drugs & Interlocks; HB49 DWI Interlock Requirements; HB74 Sentencing of Felony DWIs, HB300 No Alcohol Sales to Person with Interlocks, HB31 and SB136 Drivers’ License for Some with Only 1 DWI; HB129 DWI Blood Test Requirements; SB174 Increase DWI Penalties; SB238 DUI Penalties and Changes.