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FISCAL IMPACT REPORT

LAST UPDATED _____

SPONSOR Maestas **ORIGINAL DATE** 2/18/25

BILL

SHORT TITLE Moving Traffic Violation Deferred Sentences **NUMBER** Senate Bill 154

ANALYST Chavez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Courts	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
LOPD	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
AODA	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
Cost to Counties	No fiscal impact	At least \$19.2	At least \$19.2	At least \$37.4	Recurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From

Administrative Office of the Courts (AOC)
 New Mexico Attorney General (NMAG)
 New Mexico Sentencing Commission (NMSC)
 Corrections Department (NMCD)
 Department of Public Safety (DPS)

Agency Analysis was Solicited but Not Received From

Department of Transportation (NMDOT)

SUMMARY

Synopsis of Senate Bill 154

Senate Bill 154 (SB154) would add a new section to the Motor Vehicle Code, Section 66-8-142 NMSA 1978. The proposed section would prohibit the courts from deferring the sentence of a person who commits a moving traffic violation if the individual has, within the past year, a sentence deferred for a moving traffic violation. The bill defines a “moving traffic violation” to include the following offenses:

- Failure to obey traffic-control devices,
- Failure to obey traffic-control signals,
- Speeding,
- Failure to yield,

- Reckless driving,
- Careless driving, and
- Racing on highways.

SB154 would amend Section 31-20-3 NMSA 1978, the section that governs orders that defer or suspend sentencing to exempt Section 66-8-142 NMSA 1978. The bill also provides a technical amendment to section 31-20-3 NMSA 1978 to properly identify, by name, the Corrections Department.

SB154's provisions would apply to traffic violations that occur on or after the effective date.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

The Administrative Office of the Courts (AOC) explains that since the bill prohibits the court from deferring sentencing, it could result in increased penalties which could encourage more defendants to invoke their right to trials and jury trials. Possible increases in trials and jury trials would require additional judge time, courtroom staff time, courtroom availability, and jury fees.

The Law Offices of the Public Defender (LOPD) would also expend additional resources to defend indigent individuals, who can no longer get their sentence deferred, in trials or jury trials that would not have occurred with current law. District attorneys would likewise need to expend additional resources if more defendants invoke their right to trial.

Incarceration drives costs in the criminal justice system, so any changes in the number of individuals in prison and jail and the length of time served in prison and jail that might result from this bill could have moderate fiscal impacts. SB154 defines a "moving traffic violation" to include offenses that could be generally classified as misdemeanors. Because the offenses will no longer be deferred and could be charged as a misdemeanor, that will likely increase the population of New Mexico's jails, consequently increasing long-term costs to state and county general funds. LFC estimates a marginal cost (the cost per additional inmate) of \$19.2 thousand per county jail inmate per year, based on incarceration costs at the Metropolitan Detention Center. This analysis assumes that one additional person a year will enter a jail as a result of SB154.

SIGNIFICANT ISSUES

AOC provides the following analysis:

- 1) A deferral of a moving traffic violation ticket can allow and encourage people to take steps to improve their driving behavior or address other issues specified to be addressed in a deferral. There is a question as to whether the SB154 prohibition against deferrals will deter people from improving their driving or address other specified issues. Given that the prohibition only applies if a person has had a sentence for a moving traffic violation deferred within the past year, however, an additional moving traffic violation might indicate that a person is not learning and not improving their driving and imposing an immediate fine may provide more deterrence against additional moving traffic violations and encourage a person to actually improve their driving.

2) While it might be argued that prohibiting a court from granting a deferral of a sentence of a person who commits a moving traffic violation violates the doctrine of separation of powers set out in N.M. Constitution, Art. III, Section 1, the New Mexico Supreme Court, in *State v. Mabry*, 1981-NMSC-067, 96 N.M. 317, 630 P.2d 269 (1981), held that mandatory sentencing does not violate the doctrine of separation of powers. While the court was addressing mandatory sentencing and not a prohibition on deferrals, in both instances, the discretion of the court was removed, so it is possible that the reasoning employed by the court in *State v. Mabry* might apply.

The New Mexico Sentencing Commission (NMSC) provides the following:

SB154 does not specify how to determine whether a person has received a deferred sentence “within the past year” – i.e., whether the time is measured from (and to) the date of the deferred disposition or the date of the offense.

It is also unclear whether SB154’s applicability clause applies to both the new offense and the previous (deferred) disposition, or if deferred dispositions that occurred before the bill’s effective date could be used to prevent a deferred sentence for any moving traffic violation incurred after the bill’s effective date.

Department of Public Safety (DPS) provides the following:

DPS believes passage of this bill will help provide a deterrent to dangerous driving activity and as a result have a positive impact on roadway safety. This bill lists seven (7) traffic violations to which this amendment would apply. The first four (4) listed are penalty assessment misdemeanors with no jail jurisdiction. Therefore, removing the ability to receive a deferred sentence the second time an offender commits one of these moving violations provides a deterrent to hopefully keep them driving more safely. A deferred sentence, if successfully completed, would allow the offender to keep the points of their driver’s license. The crimes listed in (B)(5) - (7) have ninety (90) days of possible jail jurisdiction and possible fines. Being able to receive a deferred sentence to those charges is a major benefit to the offender, and removing the ability to get a deferred sentence after having previously received one is a significant consequence that would hopefully deter that conduct in the future. Reckless driving, careless driving, and racing on highways are particularly dangerous driving behaviors and present a significant safety concern to the motoring public at large. Moreover, this kind of driving has become more pervasive in recent years, putting the motoring public at risk.

OTHER SUBSTANTIVE ISSUES

NMSC provides the following:

In FY 2024, there were a total of 46.2 thousand dispositions for the traffic offenses listed in SB 154. Of these, just over 40 percent (18.7 thousand) received a deferred disposition. It is difficult to determine how many deferrals would be prevented by SB154, but the vast majority (91.6 percent) of the total dispositions for traffic offenses listed in SB154 were for violations of Section 66-7-301 (speeding), which carries fines but no jail time.