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FISCAL IMPACT REPORT

SPONSOR: Ingle DATE TYPED: 03/06/01 HB _____
 SHORT TITLE: Unlawful Possession by a Felon SB 272/aSJC
 ANALYST: Rael

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		See Narrative			

(Parenthesis () Indicate Expenditure Decreases)

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY01	FY02			
	Minimal	Minimal	Recurring	Intensive Supervision Fund

(Parenthesis () Indicate Revenue Decreases)

Related to: HB 328

SOURCES OF INFORMATION

Administrative Office of the District Attorneys (AODA)
 Public Defender (PD)
 Corrections Department (CD)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment removes a deferred sentence from the definition of “felon”.

While the fiscal impact remains indeterminate, the amendment would decrease the fiscal impact.

Synopsis of Original Bill

The Unlawful Possession by a Felon bill amends the existing criminal statute which prohibits certain convicted felony offenders from possessing a firearm or other destructive device in two ways. First, it amends the definition of the term "felon". The amended definition of the term "felon" would now include a person who was found guilty of a felony offense but whose sentence was deferred. Under existing law, the term "felon" does not include a person found guilty of a felony offense if the person's sentence was deferred.

The definition is also amended to specify that less than ten (10) years has passed since the person completed serving his sentence or period of probation for the felony conviction, whichever is later. Under current law, one must have been convicted in the preceding ten (10) years.

PERFORMANCE IMPLICATIONS

The bill could indirectly result in an improvement in the performance of the Department's Probation and Parole program in that even those offenders who received a deferred sentence will not be able to possess a firearm. This should result in a safer environment for Probation and Parole Officers who are supervising such offenders.

FISCAL IMPLICATIONS

The bill does not contain an appropriation to cover the increase in costs that will result to the Department. Each year there is a substantial number of offenders sentenced to imprisonment by the Department after being convicted of the offense as currently defined. Since this bill expands the definition of the crime to include those felons who received a deferred sentence, and there are a substantial number of felony offenders who receive deferred sentences each year, the Department anticipates that there will be a substantial increase in the number of persons sentenced to imprisonment as a result of the new and broader definition. In light of the fact that any person convicted of this offense is, by definition, a habitual offender, it must be noted that current New Mexico law requires the imposition of a mandatory prison term for such offenders. In other words, any person convicted of this offense must be sentenced to prison.

The private prison annual cost of incarcerating an inmate based upon Fiscal Year 00 actual expenditures is \$21,670 per year for males. The cost per client to house a female inmate at the privately operated facility in Grants is \$24,348 per year. Any net increase in inmate population will be housed at a private facility.

The bill will also result in a minimal increase in revenue from the additional Parole supervision fees collected.

ADMINISTRATIVE IMPLICATIONS

Any new crime or penalty increase requires the Public Defender Department to train its advocates and staff and to apply and implement the Department's Mission.

TECHNICAL ISSUES

1. On page 3, line 10, delete “offense” and insert “ sentence”.
2. On page 3, lines 9 and 10, the Department of Corrections believes that it may be more appropriate to substitute the phrase “ whether the offender received a suspended sentence, a conditional discharge, or sentencing was deferred” for the phrase “whether the offense was deferred or not”.

FAR/njw:ar