

**NOTE: As provided in LFC policy, this report is intended for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used in any other situation.**

**Only the most recent FIR version, excluding attachments, is available on the Intranet. Previously issued FIRs and attachments may be obtained from the LFC office in Suite 101 of the State Capitol Building North.**

## FISCAL IMPACT REPORT

SPONSOR: Cararro DATE TYPED: 02/20/01 HB \_\_\_\_\_  
 SHORT TITLE: Felony DWI Convictions SB 306  
 ANALYST: Rael

### APPROPRIATION

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

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

Attorney General's Office (AGO)  
 Administrative Office of the Courts (AOC)  
 Taxation and Revenue Department (TRD)  
 Public Defender (PD)  
 Corrections Department (CD)  
 Department of Public Safety (DPS)

### SUMMARY

#### Synopsis of Bill

The Felony DWI Convictions bill, would subject felony driving while intoxicated or felony aggravated driving while intoxicated convictions to the sentencing enhancements found in the Habitual Offender Act. NMSA 1978, § 31-18-17. It also increases the penalty for a second DWI offense to a minimum of five consecutive days in jail. For a second conviction of aggravated DWI (great bodily injury, refusal of breath or blood test or driving with a BAC greater than .16%), the penalty is increased to ten consecutive days in jail.

The bill repeals the existing statutory language that *permits*, but does not require, the installation of an ignition interlock device as a condition of probation.

Finally, the measure also requires the court to require repeat offenders to participate in and complete a thirty day in patient treatment program.

#### Significant Issues

This bill addresses the New Mexico Supreme Court's decision in *State v. Anaya*, 1997-NMSC-010, 123 N.M. 14, which held that felony DWI convictions were not subject to the Habitual Offender Act. The Attorney General's Office reports that the effect of that opinion was to freeze the punishment for habitual drunk driving at eighteen-months imprisonment for fourth and subsequent convictions.

### **FISCAL IMPLICATIONS**

The Public Defender reports an anticipated additional cost of \$1,889.0. The Department will need additional resources in appeals, felony trials, Metropolitan court appeals and Metropolitan/Magistrate court trials. Additionally, a change in this law would require immediate statewide training for all effected PD personnel at a cost an additional \$5,000.

The bill will result in an increase in costs to the Corrections Department due to the additional offenders who will receive additional mandatory prison time as a result of the broader definition of "prior felony conviction". On the other hand, the bill could indirectly result in a decrease in costs to the Department if the mandatory treatment programs for second or subsequent DWI offenders resulted in fewer of these offenses being committed in the future. 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.

### **ADMINISTRATIVE IMPLICATIONS**

It will cost the judicial system \$400 for statewide update, distribution, and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the habitual offender prosecutions commenced under this new law. New laws, amendments to existing laws, and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources.

FAR/ar