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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/06/07

SPONSOR Rehm LAST UPDATED \_\_\_\_\_ HB 657

SHORT TITLE Community Service in Lieu of Probation Costs SB \_\_\_\_\_

ANALYST Peery-Galon

### REVENUE (dollars in thousands)

| Estimated Revenue |         |         | Recurring<br>or Non-Rec | Fund<br>Affected |
|-------------------|---------|---------|-------------------------|------------------|
| FY07              | FY08    | FY09    |                         |                  |
| NA                | Minimal | Minimal | Minimal                 | Various          |

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

Responses Received From

Administrative Office of the Courts (AOC)  
 New Mexico Corrections Department (NMCD)  
 Bernalillo County Metro Court (BCMC)  
 Public Defender Department (PDD)

No Response Received From

Adult Parole Board

### SUMMARY

Synopsis of Bill

House Bill 657 amends Section 31-12-3 NMSA 1978 to require probationers or parolees unable to pay fine, fees or costs in a criminal proceeding to perform community service. Currently, statute allows the court to order community service, but does not require the courts to do so. The proposed legislation eliminates the court's authority to reduce the amount of the fine to be paid, or revoke the fine entirely. The proposed legislation amends Section 31-20-6 NMSA 1978 to mandate a probationer's performance of community service and allow credit towards the unpaid probation costs at an amount equal to the prevailing federal hourly minimum wage. The community service to be performed may not be suspended or deferred, and the labor must be a type to benefit the public at large, charitable entities or educational entities. Also, the proposed legislation amends Section 31-21-10 NMSA 1978 to prohibit the Parole Board from waiving a parolee's costs if unable to pay and instead would mandate a parolee's performance of community service.

**FISCAL IMPLICATIONS**

NMCD states the proposed legislation removes a provision from current law allowing the probation and parole division to go back to court to seek a rescission of the court's earlier determination that the defendant is unable to pay his probation fees if financial circumstances subsequently change so that the defendant is now able to pay the costs. NMCD reports the proposed legislation will cause a minimal reduction in department revenues.

AOC states the proposed legislation may produce a slight alteration in the amount of money collected for various funds. AOC reports the proposed legislations elimination of some proceedings to determine whether a defendant remains insolvent both in the trial court and before the parole board will produce a small cost savings. Also, the AOC notes a minimal administrative cost for statewide update, distribution and documentation of statutory changes.

**ADMINISTRATIVE IMPLICATIONS**

AOC reports as the total amount of time of community service to which defendants are sentenced to pay off fines, fees and cost increases, there will be an increased administrative burden to the courts to keep track of additional community service hours.

**OTHER SUBSTANTIVE ISSUES**

BCMC states current operating procedures within the Metropolitan Court to sentence offenders who are unable to pay fines and/or probation costs to community services.

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