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FISCAL IMPACT REPORT

ORIGINAL DATE 2/07/07

SPONSOR Park LAST UPDATED _____ HB 831

SHORT TITLE Drug Dealer Registration Act SB _____

ANALYST Peery-Galon

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
NA	NA	NA	NA

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	NA	Unknown	Unknown	Unknown	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the District Attorneys (AODA)
 Higher Education Department (HED)
 Public Education Department (PED)
 Attorney General's Office (AGO)
 Administrative Office of the Courts (AOC)

No Response Received From

New Mexico Sentencing Commission
 New Mexico Corrections Department (CD)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

House Bill 831 enacts the Drug Dealer Registration Act requiring temporary and permanent residents of New Mexico, persons moving to New Mexico or persons attending a school in New

Mexico convicted of trafficking a control substance to register with the county sheriff. These individuals must disclose they are convicted drug dealers to law enforcement entities, registrars at institutions of higher education at which they are employed or attend, principals of any private or public school they attend, and employer or supervisor. The proposed legislation requires the county sheriff to maintain a local registry and the Department of Public Safety to maintain the central registry of convicted drug dealers. The Department of Public Safety is required to establish and manage a dealer registration information website. The Department of Public Safety is to retain registration for five years for a dealer convicted of one drug offense, 10 years for a dealer convicted of two drug offenses and lifetime for dealers convicted of three or more offenses. Registration information, with the exception of the social security number, is available upon request to the public. The proposed legislation provides immunity for a public employer, public employee or public agency responsible for enforcement of the Act, provided the public employer, public employee or public agency complies with the provisions of the Act. The Act applies to a person who commits a drug offense on or after July 1, 2007.

FISCAL IMPLICATIONS

The Law Enforcement Records Bureau at present is facing an estimated 10,470 unfunded labor hours and 59,000 unfunded labor hours for existing backlog. Also, DPS is projecting a budget shortfall of \$300 thousand in the information technology division for fiscal year 2007.

The LFC has been told by DPS that the Law Enforcement Records Bureau has not had a budget increase or staff increase authorized since 1987. In that time period the Law Enforcement Records Bureau has received the following 10 unfunded mandates for the provision of services:

- NM Missing Person's Information Clearinghouse,
- Sex Offender Registration Program,
- Interstate Identification Index,
- National Instant Criminal Background Checks,
- National Crime Information Center Control Terminal Agency,
- National Crime Information Center Interstate Identification Index and Quality Assurance,
- Uniform Crime Reporting,
- State Tracking Number Program,
- National Incident Based Reporting System, and
- Conceal Carry Weapons Background Checks.

AOC states there will be minimal administrative cost for statewide update, distribution and documentation of statutory changes. AOC reports additional fiscal impact on the judiciary would be proportional to the enforcement of this law, commenced prosecutions and new procedures required of the court. AOC notes new laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts.

SIGNIFICANT ISSUES

PED states regarding the registration with a school principal intending to be accomplished by a written notice or written record of the registration, if the information is placed into a public school student's school record this would implicate the federal Family Education Rights and Privacy Act (FERPA). PED notes that under FERPA, school employees must have a legitimate educational interest to have access to these records. PED reports FERPA permits a parent to

request an educational agency to amend the student's school record if the record contains information that is inaccurate, misleading, or in violation of the student's rights of privacy and the student's parent can request a hearing if the school district refused to amend the record.

PERFORMANCE IMPLICATIONS

AOC states the proposed legislation may have an impact on performance measures dealing with cases disposed as a percent of cases filed and percent change in case filings by case type.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The proposed legislation has a relationship to Senate Bill 700 and House Bill 873, which have appropriations to New Mexico State University for a database on convicted drug dealers and methamphetamine laboratories.

OTHER SUBSTANTIVE ISSUES

AGO notes the proposed legislation is similar to a bill introduced in Congress by Representative Steve Pearce on September 22, 2006. The Communities Leading Everyone Away from Narcotics Through Online Warning Notification (CLEAN TOWN) Act creates a nationwide online registry of convicted illegal drug dealers and manufacturers, which would be accessible by the public and federal, state and local law enforcement.

HED notes a similar registration requirement is in the Drug Enforcement Administration diversion program called the Controlled Substances Act, which requires annual registration of every person who manufactures or distributes any controlled substance or list I chemical, or who proposes to engage in the manufacture or distribution of any controlled substance or list I chemical, shall obtain annually a registration issued by the Attorney General in accordance with the rules and regulations promulgated by him.

ALTERNATIVES

AODA respectfully recommends that the language in the proposed Drug Dealer Registration Act mirror that of the Control Substance Act. Specifically, it is recommended that a "drug dealer" be referred to as a "drug trafficker." It is also recommended that a "drug offense" be referred to as a "drug trafficking offense", and that the definition of a drug trafficking offense includes those elements set forth in Section 30-31-20 to 30-31-21 NMSA 1978.

AOC suggests clarifying whether both the convicted drug dealer's social security number and place of employment is public information when the convicted drug dealer's employment requires the convicted drug dealer to have direct contact with children or youth.

RPG/csd