

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 2/8/07

SPONSOR Harden LAST UPDATED _____ HB _____

SHORT TITLE Prohibit Deferred Sentences for Trafficking SB 650

ANALYST Peery-Galon

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$0.1	\$0.1	\$0.1	Recurring	Unknown

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Responses Received From

Administrative Office of the District Attorneys (AODA)
 New Mexico Corrections Department (NMCD)
 New Mexico Sentencing Commission (NMSC)
 Administrative Office of the Courts (AOC)

No Response Received From

Public Defender Department

SUMMARY

Synopsis of Bill

Senate Bill 650 amends Section 30-31-20 NMSA, known as the Controlled Substance Act, to prohibit the suspension, deferral or taking under advisement of a sentence for a second or subsequent conviction for the offense of trafficking controlled substances.

FISCAL IMPLICATIONS

NMSC states the proposed legislation will require the Corrections Department to house offenders for much longer periods of time. NMSC notes the impact will not be felt for a median of 10 years or the shortest prison sentence an offender would receive from the proposed legislation. NMSC reports an immediate effect would be realized because any offender sentenced to a term or jail and/or probation prior to this bill would now go to prison.

NMCD states there is no appropriation to cover the costs associated with the mandatory prison time caused by the proposed legislation. NMCD reports the annual cost of incarcerating an inmate is \$23,867 per year for males and \$21,651 per year for females. The cost per client in probation and parole for a standard supervision program is \$1,467 per year, for an intensive supervision program is \$3,383 per year, for a NMCD community corrections program is \$3,503 per year, for a privately-owned community corrections program is \$7,917 per year, and for male and female residential community corrections program is \$39,401 per year.

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

SIGNIFICANT ISSUES

AODA states the proposed legislation is of no substantive effect. AODA reports the designated penalty for a second or subsequent conviction is a first degree felony. AODA states sentences for first degree felony convictions can not be suspended or deferred under current law. AODA note Section 31-20-3 NMSA 1978 provides that the court may defer imposition of sentence or suspend a sentence in whole or in part in “any crime not constituting a capital or first degree felony.” AODA reports because a second conviction for trafficking is a first degree felony offense, the sentence can never be suspended or deferred.

NMSC states in March 2006, the Corrections Department held 143 individuals for a second and subsequent trafficking conviction under 30-31-20(B) NMSA 1978. Of that total, 93 were new commitments or re-admissions. The median sentence length for these individuals was 10 years. Only 13 of the 93 offenders showed sentences of 18 years or more. Fifteen of the individuals were serving a new commitment on a probation violation. NMSC reports statute requires individuals serving time for trafficking to be confined for 50 percent of their sentence.

AOC notes the proposed legislation does not amend Section-30-31-20(C) NMSA 1978, so a person convicted of a first-degree felony or trafficking within a drug-free school zone might still have a sentenced suspended, deferred or taken under advisement.

PERFORMANCE IMPLICATIONS

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

ADMINISTRATIVE IMPLICATIONS

NMCD states any legislation that requires mandatory prison time can negatively affect the department’s ability to provide services. NMCD notes it will require current staff to attempt to provide the same level of services to more and more inmates, making it more difficult to provide adequate services to inmates.

NMSC states the proposed legislation will almost double the amount of time that individuals will

be confined for a second or subsequent trafficking offense thereby increasing the Correction Department's need for bed space.

AOC notes new laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts requiring additional resources.

RPG/nt