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FISCAL IMPACT REPORT

ORIGINAL DATE 02/21/13

SPONSOR Garcia, R. LAST UPDATED _____ HB 479

SHORT TITLE DWI Home Breathalyzer Devices SB _____

ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	Unknown	Unknown	Unknown	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Administrative Office of the District Attorneys (AODA)
 Attorney General's Office (AGO)
 Department of Public Safety (DPS)
 Department of Transportation (DOT)
 New Mexico Sentencing Commission (NMSC)
 Public Defender Department (PDD)

SUMMARY

Synopsis of Bill

House Bill 479 (HB 479) amends Section 66-8-102 NMSA 1978 so that a DWI offender who receives a sentence of incarceration and is ordered to serve the sentence under house arrest, the court may order the offender obtain a home breathalyzer device that identifies the person providing the sample, and provide a morning and evening breath sample, for the duration of the house arrest. The offender shall pay all costs associated with the device unless the offender is determined by the court to be indigent.

HB 479 also amends Section 66-8-102.3 to include home breathalyzer devices alongside ignition interlock devices as covered by the "interlock device fund," further specifying that the fund can pay up to \$30 monthly toward the lease of a home breathalyzer device for an indigent offender.

FISCAL IMPLICATIONS

Because the legislation states that a judge *may* impose a home breathalyzer on a DWI offender confined to house arrest, it is unknown how many individuals this legislation may affect. The DOT reports that the interlock device fund is currently solvent and that the provisions of HB 479 will not have a significant impact on the funding status of the fund.

SIGNIFICANT ISSUES

The Traffic Safety Division (TSD) would have to promulgate rules, a licensing process, and a network of providers before implementing the law. The DOT reports that the New Mexico Administrative Code (NMAC) rulemaking process takes approximately six to nine months, and the promulgation of rules under NMSA 1978, Section 66-8-102 by June 1, 2013 is not practicable.

Home breathalyzer devices could be used as an alternative monitoring device for offenders who claim “no vehicle”.

TECHNICAL ISSUES

A conviction could potentially require an individual to acquire a home breathalyzer and an ignition interlock at the same time. In such instances, an indigent person with a home breathalyzer and an ignition interlock device would cause the interlock device fund to incur costs for both devices, which would cause a more rapid depletion of the interlock device fund.

NCJ/svb