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FISCAL IMPACT REPORT

ORIGINAL DATE 02/01/13
 SPONSOR O'Neill LAST UPDATED 03/01/13 HB _____
 SHORT TITLE Community Corrections Panels SB 145/aSJC
 ANALYST Chenier

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		(Minimal to Moderate)*	(Minimal to Moderate)*	(Minimal to Moderate)*	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

*See Fiscal Implications

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Corrections Department (NMCD)

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to Senate Bill 145 makes a small grammatical correction and removes the originally proposed provision that would have permitted the NMCD to place offenders into community corrections programs.

Synopsis of Original Bill

The Administrative Office of the Courts (AOC) states that Senate Bill 145 amends and repeals statutory sections within the Adult Community Corrections Act, Section 33-9-1 NMSA 1978, as follows:

- eliminates both state and local selection panels for screening and identifying criminal offenders for participation in community-based corrections programs, by repealing Sections 33-9-7 and 33-9-8 NMSA 1978;
- provides increased discretion to the Department of Corrections (NMCD) in setting operating standards for community-based corrections programs, in permitting the NMCD to use more than 25 percent of the Community Corrections Grant Fund (“fund”) to contract directly for programs and in eliminating the 60 percent limitation upon use of funds by the NMCD to operate adult community corrections programs;

- permits the NMCD to use the fund to place individuals eligible for *probation* as well as for parole in community-based settings;
- removes the requirements for the make-up of the application review panel under Section 3-9-6 NMSA 1978;
- requires the adult probation and parole division of the NMCD, at the request of the judge, to prepare a report containing a recommendation regarding community corrections placement or complete diagnostic evaluation containing the recommendation of the NMCD regarding that placement, in every case where the commitment of a person to the NMCD is contemplated by a sentencing judge and the offender meets criteria for placement in community corrections; and
- permits the NMCD to place an offender serving a term of probation or parole into a community corrections program if the offender meets the NMCD's criteria for such a placement and the sentencing judge or parole board has not ordered otherwise.

The NMCD adds that community corrections offenders are generally considered ‘high needs’ offenders in need of some sort of behavioral health counseling (substance abuse, mental health, etc.) in order to do well in their communities without recidivating.

FISCAL IMPLICATIONS

The NMCD indicates that because the bill will remove the administrative burdens and costs associated with trying to find members for a local or state selection panel and then convene meetings, it will save the NMCD minimal to moderate amounts of money.

It is also more likely that the Department will expend all funds earmarked for the non-reverting community corrections grant fund by reducing barriers to placement in community corrections programming.

SIGNIFICANT ISSUES

The NMCD adds that when a state or local selection panel denies a particular offender's placement into what is known as “community corrections” supervision or programs, these offenders are still going to be living in New Mexico communities and will still be placed on other levels of probation or parole. The state or local selection panel's denial does not prevent an offender's placement in the community, but merely prevents the NMCD from using available resources to place offenders in community corrections programs. The NMCD will still provide programs and services for offenders, but must now use general fund revenue to do so. The panels add extra steps to the process delaying the provision of services for offenders.

As a standard condition of probation offenders have to comply with standards of supervision set by an offender's probation officer, including community corrections. The SJC amendment striking the authority to place offenders in community corrections may reduce the Department's ability to place offenders in appropriate programming. Furthermore, if the Adult Parole Board did not initially order an offender placed into a community corrections program the NMCD will likely have to return to the board obtaining approval.

The AOC states that the amendment would eliminate the requirement that the NMCD generate a recommendation in cases where the court is not interested in a recommendation for community corrections because, for instance, the court intends to send the defendant to prison.

ADMINISTRATIVE IMPLICATIONS

The NMCD maintains that the bill will improve the administrative efficiency of NMCD PPD by eliminating the administrative burdens associated with selecting the panels, working to schedule panel meetings, and having the panels deny community corrections placement/programs for certain offenders. Further, the panels' denial of community corrections placement for certain offenders merely delays the provision of needed services and programs, to the detriment of the offender, NMCD PPD, and the community.

OTHER SUBSTANTIVE ISSUES

The NMCD notes that the streamlining of the Community Corrections Act, and the elimination of the state and local selection panels, was recommended by the LFC, a bipartisan entity, this past summer, and this bill if passed would enable the NMCD to comply with those reasonable recommendations. Specifically, the NMCD states the June 14, 2012 LFC Report, entitled "New Mexico Corrections Department: Reducing Recidivism, Cutting Costs and Improving Public Safety in the Incarceration and Supervision of Adult Offenders," made the following conclusions and recommendations:

- The Community Corrections Act is outdated and overly rigid, and creates barriers to successful service delivery (p. 33);
- The State and Local selection panels and (application) review panel mandated by the Act are no longer needed, because of the Behavioral Health Collaborative and the knowledge and expertise of program operators (p. 33); and
- The Legislature should consider changes to the Act to allow for more flexibility in the use of community corrections funds and removing the requirements for state and local advisory panels (p. 37);

EC/svb:blm