

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 and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 2/14/15

SPONSOR Sanchez, M LAST UPDATED _____ HB _____

SHORT TITLE Magistrate Court Judgment on Appeal SB 514

ANALYST A. Sánchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Sentencing Commission (NMSC)
 Public Defender Department (PDD)
 Administrative Office of the District Attorneys (AODA)

SUMMARY

Synopsis of Bill

Senate Bill 514 proposes to prohibit the district court from increasing the penalty imposed by the magistrate court.

SIGNIFICANT ISSUES

According to the PDD, The proposed amendment removes the possibility of punitive sentencing in district court against appellants for exercising their constitutional right of appeal. Case law already largely precludes this, yet it sometimes has to be litigated on appeal. *Cf. State v. Cordova*, 1983-NMCA-144, 100 N.M. 643 (error to impose more severe sentence after defendant’s successful appeal).

Appeals from inferior courts to the district court are heard “de novo,” meaning that the district court conducts a new trial as if the trial below had not occurred, except as otherwise provided by law. See Section 39-3-1 NMSA 1978. New Mexico courts have held that where the statute governing de novo appeals from the inferior court is silent as to penalty, such as the statute for de

novo appeals from metropolitan court, the higher court cannot impose a sentence greater than that imposed by the lower court. See *State v. Haar*, 94 N.M. 539, 612 P.2d 1350 (N.M. App. 1980). But the higher court may reconsider penalties if allowed to do so by statute. SB 514 changes the statute governing appeals from magistrate courts, which currently allows the district court to reconsider penalties, to limit the district court to a penalty equal to or lower than the penalty imposed in magistrate court. In effect, the magistrate court's decision in the case will impose a cap on the penalty that can be imposed on appeal.

According to AODA, SB 514 moves away from the true meaning of “de novo,” because even though the district court will be conducting a trial as if no previous trial had been held, and may hear different evidence and arguments than the lower court, the penalty imposed by the district court will be limited by the penalty decision reached by the lower court. Limiting the district court to the penalty imposed by the magistrate court means that there is no possible down-side to appealing a magistrate court decision, except for the \$35 filing fee. Even appellants who fail to appear in district court after filing an appeal cannot receive a higher penalty than that imposed by the magistrate court.

The district court may not be able to impose the penalty it believes is warranted by the facts presented to it, because it will be limited to imposing a penalty no greater than that imposed by the magistrate court based on the facts presented in that case.

According to NMSC, in FY2014, there were 693 cases that would be impacted by this bill.

ADMINISTRATIVE IMPLICATIONS

The PPD opines that this bill would simplify the appellate process, and streamline sentencing proceedings in magistrate court appeals to district court.

ABS/aml/bb