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## FISCAL IMPACT REPORT

**SPONSOR** Smith **ORIGINAL DATE** 2/8/2016  
**LAST UPDATED** \_\_\_\_\_ **HB** \_\_\_\_\_

**SHORT TITLE** Criminal Justice Enforcement Fund **SB** 274

**ANALYST** Rogers

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		
	\$5,000.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$5,000.0	\$5,000.0	\$10,000.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Corrections Department (NMCD)  
 Administrative Office of the Courts (AOC)  
 Administrative Office of the District Attorneys (AODA)  
 Law Offices of the Public Defender (LOPD)

#### Responses Not Received From

Department of Public Safety

## SUMMARY

### Synopsis of Bill

Senate Bill 274 creates the criminal justice enforcement fund and appropriates \$5 million to the fund in FY17 and subsequent fiscal years; funds do not revert to the general fund at the end of the year. The fund consists of appropriations, gifts, grants, donations, and bequests and is subject to appropriation by the legislature for the extra costs of NMCD, DPS, courts, district attorneys, and LOPD due to the passage of criminal justice legislation.

## FISCAL IMPLICATIONS

Many of the crime bills in this session create large fiscal impacts. The LFC estimated the impact of one bill alone to be \$5 million per year.

NMCD stated that while the bill seeks to offset the collateral consequences of crime bills as they impact the criminal justice system, the fiscal impact for NMCD remains unknown, as it is unclear how the funds may be prioritized and allocated. Should revenues from this fund be allocated to NMCD to offset the fiscal impact of a crime bill approved by the legislature and signed into law by the governor, it could reduce NMCD's operation or other costs.

In regards to NMCD, the LFC has analyzed that legislation such as enhanced sentencing will increase the population of New Mexico's prisons and longterm costs to the general fund. An increased length of stay would increase the cost to house offenders in prison. In addition, sentencing enhancements could contribute to overall population growth as increased sentence lengths decrease relative to the rate of admissions pushing the overall prison population higher. NMCD's general fund budget, not including supplemental appropriations, has grown \$5 million, or 7 percent, since FY11 as a result of growing prison populations. This year alone, NMCD has requested a \$15 million special appropriation for growing prison populations and for the treatment of chronic hepatitis C. NMCD's base budget request included \$12 million in growth related to burgeoning populations and for necessary staff.

Societal benefits, particularly to potential victims, would also accrue through enhanced sentences or other crime bills if they reduce or delay re-offenses. LFC cost-benefit analysis of criminal justice interventions shows that avoiding victimization results in tangible benefits over a lifetime for all types of crime and higher amounts for serious violent offenses. These include tangible victim costs, such as healthcare expenses, property damage and losses in future earnings and intangible victim costs such as jury awards for pain, suffering and lost quality of life.

The AOC stated that the funds the bill provides will assist the judicial branch with unforeseen costs related to legislative mandates with nonexistent or insufficient appropriations.

The AODA explained that changes in criminal laws often impact enforcement agency budgets in ways that cannot be immediately anticipated. Because laws are passed concurrently with agency budgets, it is difficult to adjust for unforeseen expenditures, especially in the first year after passage. The fund will cut down on piecemeal or supplemental appropriations to offset budgetary impacts occasioned by these changes in legislation. The AODA presumes that the bill is envisioned to cushion those impacts so as not to adversely affect agency budgets, while allowing them to operate effectively in carrying out the law. The fund could greatly ease

complications to enforcing agencies as they address new laws, which in turn will enhance both their efficiency and the efficacy of the laws themselves.

LOPD stated that an injection of criminal defense funding would help them in meeting their constitutionally mandated duties in the face of an increasing number of laws criminalizing conduct.

### **SIGNIFICANT ISSUES**

All of the responding agencies pointed out that there is no defined mechanism for the appropriations made nor has the administrator of the funds been defined.

The AODA assumes that the interim Legislative Finance Committee will develop an appropriate structure that is fair to all. The AODA also stated that allowing the fund to receive gifts, grants, donations, and bequests and allowing for nonreversion optimizes that safety net the fund creates.

The AOC believes the bill suggests a competitive proposal system among all the agencies that might have unforeseen costs that arise from legislation.

The LOPD suggested the proposed fund be distributed in proportion to the agencies' comparative total budgets and that, throughout the year, the distribution would be determined by the interim Legislative Finance Committee to address unexpected and unbudgeted expenses.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Without the bill, the AODA stated that agencies will continue to try to adapt existing budgets to increased needs occasioned by new legislation, especially in the first year after those changes go into effect. AODA further elaborates that even in the second year, as budgets must be turned in by September 1, there may not have been sufficient time to adequately determine budgetary impact in order to request appropriate resources to compensate and ensure proper enforcement of the laws. Not enacting this bill may thus put a two year delay on effective enforcement of certain new legislation.

TMR/jo