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## FISCAL IMPACT REPORT

SPONSOR Chasey ORIGINAL DATE 02/15/21  
LAST UPDATED \_\_\_\_\_ HB 273  
SHORT TITLE Sentencing Commission Criminal Code Redraft SB \_\_\_\_\_  
ANALYST Rabin

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY21	FY22		
\$0.0	\$500.0	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the District Attorneys (AODA)  
Office of the Attorney General (NMAG)  
Sentencing Commission (NMSC)

### SUMMARY

#### Synopsis of Bill

House Bill 273 appropriates \$500 thousand from the general fund to the Sentencing Commission (NMSC) for expenditure in FY22 and FY23 to redraft the Criminal Code and related statutes.

### FISCAL IMPLICATIONS

The appropriation of \$500 thousand contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY23 shall revert to the general fund.

### SIGNIFICANT ISSUES

NMSC provides the following analysis:

The New Mexico Legislature regularly amends and adds new crimes to the Criminal Code and to the wider statutory law of the state – there are many crimes in New Mexico law that are located outside of the Criminal Code. This piecemeal accretion of new statutes and

amendments to old ones has created imbalances in the state's criminal statutes. Additionally, there are inconsistencies between certain criminal statutes and case law in the state. New Mexico has a relatively low number of levels of felonies and misdemeanors compared to other states, meaning that certain crimes of a particular class are not necessarily of the same seriousness as other crimes that share that class. In an attempt to get around this, the criminal statutes are littered with special provisions to adjust the penalties for particular crimes, making exceptions to the general sentencing scheme, adding to the lack of consistency in the state's criminal law. Furthermore, there have been tremendous advances made in the understanding of how criminal statutes do or do not deter crime, and how collateral consequences of a conviction, particularly felony convictions, can hinder an offender's attempt to rehabilitate and avoid recidivating. A comprehensive reworking of the Criminal Code and all of the additional criminal statutes in our laws is long overdue.

The Sentencing Commission is the state agency best positioned to direct this effort as the Commission is made up of a cross section of actors in the criminal justice system, representing years of expertise in the state's criminal law. In addition, the Commission has the responsibility in statute to recommend changes to the state's criminal law to the Executive, Legislative, and Judicial branches of government. The Commission also has the statutory authority to receive and analyze data from the entire criminal justice system, juvenile and adult. There is no actor in the state better situated to undertake comprehensive reform of the state's criminal laws.

The Administrative Office of the District Attorneys notes that the bill only provides an appropriation with no specifics about why or how the Criminal Code and related statutes are to be redrafted. Further, the agency adds that it is not clear whether NMSC will be working with other agencies in the criminal justice system to complete this project.

ER/sb