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## FISCAL IMPACT REPORT

SPONSOR: Godbey DATE TYPED: 03/04/01 HB 287/aHJC  
 SHORT TITLE: Corrections Officers to Carry Firearms SB \_\_\_\_\_  
 ANALYST: Trujillo

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		See Narrative		Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 227 and SB 148

### SOURCES OF INFORMATION

LFC Files  
 Attorney General (AG)  
 Children, Youth and Families Department (CYFD)  
 Corrections Department(CD)  
 NM Public Defender (NMPD)

### SUMMARY

#### Synopsis of HJC Amendment

The House Judiciary Committee amendment to HB 287 inserts the following “in the performance of his duties”, in reference to probation and parole officers.

#### Synopsis of Original Bill

HB287 amends the existing "Unlawful Carrying of a Deadly Weapon" criminal statute to allow probation and parole officers of CD who have successfully completed a course of firearms instruction prescribed by the New Mexico Law Enforcement Academy or a certified firearms instructor to carry a concealed loaded firearm. The exemption from this misdemeanor criminal statute is similar to the exemption in state statutes allowed for other peace officers.

#### Significant Issues

HB287 adds a fifth exception to the state’s ban on carrying loaded concealed weapons. Also, this bill only allows probation and parole officers of the CD to have this privilege. CD reports the most significant issue to CD is that its probation and parole officers are being required

to supervise an increasingly number of dangerous offenders. This supervision includes searching the probationer's or parolee's home or automobile, keeping the individual under surveillance or arresting that person. Many probationers and parolees are carrying or are in the possession of firearms or associating with persons who are armed with firearms. These probationers and parolees or their associates are often involved in the possession or distribution of controlled substances or stolen property.

Furthermore, CD's probation and parole officers are increasingly involved in community policing efforts, as well as joint task force operations with other state and federal law enforcement agencies. These task force operations bring probation and parole officers in contact with dangerous individuals who are often carrying firearms.

In light of the increasingly dangerous situation in which probation and parole officers must conduct their duties, it is imperative that they be able to carry concealed and loaded firearms when acting as peace officers. Section 33-1-10 NMSA already provides CD's probation and parole officers with peace officers status while supervising probationers and parolees.

Currently, probation and parole officers, like most other citizens, are not prohibited from carrying firearms if they are not concealed. There are situations where carrying a firearm in a concealed manner would enhance the officers' safety or be advantageous to the overall operation. Surveillance, assisting plainclothes police officers or in environments where a strong uniformed presence would not be appropriate are circumstances that would warrant a concealed weapons option. This amendment does not enhance or diminish a probation and parole officer's current arrest authority.

It is not CD's present intention to train, equip and authorize every officer to carry a concealed weapon. Rather, the number will be small and based upon operational considerations.

## **PERFORMANCE IMPLICATIONS**

According to CD, HB287 will greatly enhance the performance of CD's probation and parole supervision program. Probation and parole officers will be better able and more efficiently able to carry out their arrest and supervision function with regard to dangerous offenders.

## **FISCAL IMPLICATIONS**

According to CD, HB287 would result in a minimal to moderate increase in costs to the department as a result of the need to send some of its probation and parole officers to certified firearms instruction courses as well as to purchase firearms and ammunition for these officers.

DPS reports there is no discernable impact on DPS from passage of the proposed legislation. It is unknown whether passage of the proposed legislation will affect any federal appropriation or any other local, state or federal matching funds.

## **ADMINISTRATIVE IMPLICATIONS**

According to CD, HB287 would result in a slight increase in the administrative burden placed upon those probation and parole officers who would be required to attend a firearms instruction course. Also, CD would be required to either send these officers to such a course at the Law Enforcement Academy or some other certified firearms instruction course, or else obtain and maintain a certified firearms instructor at the CD Training Academy.

DPS reports there is possible administrative impact from passage of the proposed legislation, as the legislation requires that a contractor notify the Secretary of Public Safety of certain information specified in the proposed legislation. From a reading of the proposed legislation, it appears this language transmittal to the Secretary of Public Safety is purely informational in nature.

## **RELATIONSHIP**

The AG reports:

1. HB 227 and SB 148 do not add this exception. Instead, they add an exception for a person in possession of a valid concealed handgun license issued by DPS.
2. SB 148 adds a sentence to § 30-7-2 (C). It explains that the second or subsequent violation equals a misdemeanor (not petty misdemeanor).

## **OTHER SUBSTANTIVE ISSUES**

The AG reports all concealed weapons bills raise the question of what to do with Article II, Section 6 of the New Mexico Constitution. It reads: “No law shall abridge the right of the citizen to keep and bear arms for security and defense, for lawful hunting and recreational use and for other lawful purposes, but nothing herein shall be held to permit the carrying of concealed weapons.”

According to NMPD HB 287 disposes of any pretence of a probation officers’ true role (monitoring a probationer or parolee’s transition from prisoner to productive citizen) and makes them a police officer, by cloaking them with the police officers’ most powerful symbol of authority, a gun. The probation officer already is possessed with sufficient power to readily control the behavior of parolees. His report or recommendation can almost immediately return a parolee to jail. There is little or no record in NM of a probationer or a parolee harming a probation officer. The mere threat to do so would certainly land the Parolee back in jail. The presence of a gun would only further serve to widen the perceived gap of mistrust and the substantial gulf existing between the citizen and the society he is attempting to reenter. It may also create an increased, not lessened, threat of violence and harm.

LAT/ar