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FISCAL IMPACT REPORT

SPONSOR: McSorley DATE TYPED: 02/22/01 HB _____
 SHORT TITLE: Gun Violence Protection Act SB 241
 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 242 and SB 131

SOURCES OF INFORMATION

- LFC
- Administrative Office of the Courts (AOC)
- Bernalillo County Metropolitan Court (BCMC)
- Administrative Office of the District Attorneys (AODA)
- Children Youth and Families Department (CYFD)
- Corrections Department (CD)
- Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

SB241 creates the “Gun Violence Prevention Act”. The bill requires that before a gun show vendor sells, transfers, or attempts to sell or transfer a firearm at a gun show, he shall require the performance of a criminal background check on the prospective purchaser. SB241 requires a gun show promoter to arrange for the services of a licensed firearms’ dealer on the premises of a gun show to perform the criminal background check. A gun show vendor or gun show promoter who violates the above provision is guilty of a petty misdemeanor; except upon a third or subsequent conviction, the person is guilty of a fourth degree felony.

SB241 also requires a gun show promoter to post in a prominent location a notice that sets forth the requirements for criminal background checks as provided in the Act. A gun show promoter who fails to comply with this posting requirement is guilty of a petty misdemeanor.

SB241 also requires that a licensed firearm dealer who conducts a criminal background check on a prospective purchaser shall record the transfer of a firearm and retain the records in the same manner

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as when he conducts a sale, rental or exchange of firearm at retail. A firearms' dealer who fails to maintain the records as required above is guilty of a petty misdemeanor.

Finally, SB241 provides that a licensed firearm dealer may charge a fee not to exceed fifteen dollars (\$15.00) to conduct a background check. SB241 also contains exceptions for the transfer of an antique firearm, a curio or a relic.

Significant Issues

According to DPS, SB241 would violate the provisions of 18 U.S.C. 922(t) and 28 C.F.R. 25.6 which only allow licensed federal firearm dealers to perform national instant criminal history checks to be performed on firearms which they are selling. SB241 does not specify the firearms dealer to have a federal designation.

CD reports an increase in costs will result from the additional offenders convicted of the new misdemeanor and felony offenses.

PERFORMANCE IMPLICATIONS

BCMC reports if enactment produces a significant caseload increase due to numerous prosecutions of violations of the Act, there could eventually be a need to correspondingly increase the Court's operating budget to cope with the increased workload. If a significant increase in prosecutions did not result from enactment, impact on the Court should be manageable.

FISCAL IMPLICATIONS

AOC reports it will cost the judicial information system \$400 for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws, and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SB241 does not include an appropriation to cover the minimal to substantial increase in costs that will result to CD from the additional offenders who are convicted and sentenced to prison or probationary supervision by the department. CD anticipates that most of the persons convicted of the new offenses would be sentenced to probationary supervision by the department. However, it is likely that a few of the offenders convicted of the new misdemeanors, and most of the offenders convicted of the new fourth degree felony, will be sentenced to imprisonment by CD. Since these are entirely new offenses, it is difficult for CD to estimate the number of persons who will be convicted of these new offenses. CD roughly estimates that from three (3) to ten (10) persons will be sentenced to probationary supervision by the Department each year as a result of the new offenses and perhaps one (1) person will be sentenced to prison each year based upon these new crimes.

CD reports the private prison annual cost of incarcerating an inmate based upon Fiscal Year 00 actual expenditures is \$21,670 per year for males. The cost per client to house a female inmate at the privately operated facility in Grants is \$24,348 per year. Any net increase in inmate population will be housed at a private facility.

CD reports the cost per client in probation and parole for a standard supervision program is \$1,536 per year. The cost per client in Intensive Supervision programs is \$3,922 per year. The cost per client in department-operated community corrections programs is \$5,519 per year. The cost per client in

privately-operated community corrections programs is \$10,724 per year.

According to CD, SB241 could result in a minimal increase in revenue due to the additional probation and parole supervision costs collected from those persons convicted of these new offenses.

ADMINISTRATIVE IMPLICATIONS

According to CD, SB241 will result in an increase in the administrative burden upon department Probation and Parole personnel who will be required to supervise a larger caseload. In the long-term, CD will be unable to absorb the additional burden and one (1) or two (2) additional F.T.E. could be required.

AOC indicates there may be an administrative impact on the courts as the result of an increase in caseload and/or in the amount of time necessary to dispose of cases.

TECHNICAL ISSUES

Criminal background checks at the retail level cost \$5.00. Under the provisions of this bill a cap is placed on the licensed firearms dealer in which the licensed firearms dealer may charge up to \$15.00.

Staff placed calls to local vendors to determine if fees were consistent and found most vendors called do not charge a fee.

OTHER SUBSTANTIVE ISSUES

According to DPS, SB241 would violate the provisions of 18 U.S.C. 922(t) and 28 C.F.R. 25.6 which only allow licensed federal firearm dealers to perform national instant criminal history checks to be performed on firearms which they are selling. SB241 does not specify the firearms dealer to have a federal designation.

Attachment A is a summary of gun laws in New Mexico as provided by Americans for Gun Safety.

LAT/njw
Attachment