

which would translate into a reduction in costs to the department because of the lesser number of prison commitments and smaller prison population.

2. If a significant number of persons with prior felony convictions are not sentenced to prison the result may be a lack of deterrence and a continuance of additional crimes against the general public. Consequently, this could lead to longer prison sentences and result in increased cost to various other criminal justice agencies, including the police, prosecuting agencies, the public defender and the courts. It is possible that mandatory prison terms for habitual felony offenders have contributed to the recent reduction of crime rates.

3. Of particular concern to the CD is that the bill could be interpreted to allow inmates who are convicted of committing certain felonies while in prison to receive a sentence that would not involve additional prison time.

The bill creates more judicial discretion by providing flexibility to suspend or defer what would otherwise be mandatory sentences.

FISCAL IMPLICATIONS

The bill contains no appropriation. There will be minimal administrative cost for statewide update, distribution, and documentation of statutory changes.

The CD indicates costs could be reduced if the court suspends or defers the imposed sentence.

The Administrative Office of the Courts states the fiscal implications on the judiciary will directly follow the amount of hearings generated by this amendment.

The Administrative Office of the District Attorney (AODA) feels the fiscal impact will be significant on the criminal justice system. If a repeat offender is no longer facing mandatory time under the Habitual Offender Statute, there will be fewer reasons for that person to enter a plea, thus forcing more cases to go to trial. This would increase the needs of the prosecutors, public defenders and courts for more personnel to handle an increased trial load. As the number of cases set for trial increase, it will take longer for cases to be resolved, possibly resulting in longer pre-trial confinement, thus impacting jails throughout the state. Even if a defendant were to enter a plea, under this bill, there would be the need to have a sentencing hearing so that both sides can present evidence and/or argument to the court about the types of sentence the defendant should receive. Under the current statute, such a hearing is not necessary as the sentence is mandatory. However, the removal of the ten year requirement for prior felonies would help reduce the costs of determining when a sentence was completed.

ADMINISTRATIVE IMPLICATIONS

The administrative implications on the CD depends on the frequency of judicial discretion providing for the suspension or deferment of sentences. The AODA indicates it would need additional FTE's to handle an increasing caseload of offenders with prior convictions. If crime continues to rise, the number of FTEs will need to increase over time.

CONFLICT

House Bill 117 and Senate Bill 16 conflict with this bill because they amend different language within Section 31-18-17 NMSA 1978.

POSSIBLE QUESTIONS

1. Should a habitual offender receive a mandatory sentence or should it be left to the court's discretion ?
2. Should a person convicted of a violent felony be eligible for receiving a suspended or deferred sentence ?
3. Does the removal of mandatory penalties for being a repeat offender increase the likelihood of increased crime ?

FC/ls