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FISCAL IMPACT REPORT

SPONSOR: Swisstack DATE TYPED: 3/10/03 HB 510/aHJC/aHAFC
 SHORT TITLE: Establish NM Sentencing Commission SB _____
 _____ ANALYST: Chavez

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			See Narrative		

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with SB 326

House Bill 510 relates to the General Appropriation Act of 2003, which gives \$275.0 for contractual services for the CJCC in addition to the \$500.0 appropriated in this bill.

SOURCES OF INFORMATION

Crime Victims Reparation Commission (CVRC)
 Criminal/Juvenile Justice Coordinating Counsel (CJCC)
 Administrative Office of the Courts (AOC)
 LFC Files

SUMMARY

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee Amendment strikes the appropriation and provides that *contingent upon the availability of funding* the commission is to provide impact estimates, incorporating prison population projections, on all proposed legislation that has the potential to affect correctional resources. Also *contingent upon the availability of funding* in fiscal years 2004 and 2005, the commission is to use the expertise of a national or state organization with experience in sentencing reform to develop sentencing reforms for the state, and to present the recommended reforms to the legislature.

Synopsis of HJC Amendment

The House Judiciary Amendment addresses a concern of the Crime Victims Reparation Commission (CVRC) which indicated that membership of the commission should be reflective of constituents and that the New Mexico Victim Assistance Organization does not represent the victim community. The CVRC suggested the language be changed to allow the Governor to ap-

point a victim representative to the commission. The amendment implements the suggestion of the CVRC and allows for the Governor to appoint one public member who is representative of a New Mexico victim organization.

The amendment also requires the impact on enacted sentencing standards to be annually assessed, monitored and reported to the legislature.

Additionally, the amendment requires that the commission annually assess, monitor and report to the legislature on the impact of any enacted sentencing standards and guidelines on state and local correctional resources and programs and the need for further sentencing reform.

Further, the amendment includes in the commissions' duties the review of past studies or reports regarding proposed changes to the Children's Code.

Synopsis of Bill

House Bill 510 creates the New Mexico Sentencing Commission, which replaces the Criminal and Juvenile Justice Coordinating Counsel and extends the duties of the commission.

Significant Issues

House Bill 510 amends Section 9-3-10, 9-3-10.1, 9-3-10.2 and 31-18-15 NMSA 1978. The bill creates the New Mexico Sentencing Commission that consists of twenty-three members as outlined in paragraph B., Section 9-3-10 NMSA 1978. In addition to the current tasks and duties the commission is to:

1. Annually assess, monitor and report to the legislature on the impact of any enacted sentencing standards and guidelines on correctional resources and programs and the need for further sentencing reform.
2. When developing proposed sentencing reform, the commission is to study sentencing models in other jurisdictions utilizing the expertise of a national or state organization with experience in sentencing reform.
3. Present proposed legislation or recommendations regarding sentencing reform to the appropriate legislative interim committee.
4. Review all proposed legislation that creates a new criminal offense, changes the classification of an offense, or changes the range of punishments for an offense, and make recommendations to the legislature as to whether proposed changes would improve the criminal and juvenile justice system.
5. Contingent upon the availability of funding, provide impact estimates, incorporating prison population projections, on all proposed legislation that has the potential to affect correctional resources.

The Criminal/Juvenile Justice Coordinating Council (CJJCC) indicated that this was one of two bills the CJJCC requested of the Corrections Oversight and Justice Interim Committee during the 2002 interim. Members of the CJJCC agree that the developing policy in the adult and juvenile areas is equally important and that both efforts should be adequately funded.

The effective date of the provisions of the act is July 1, 2003. On July 1, 2003:

- All personnel, appropriations, money, records, furniture, equipment and other per-

sonal and real property of the Criminal Juvenile Justice Coordinating Council shall be transferred to the New Mexico Sentencing Commission.

- All contracts and other obligations binding on the Criminal and Juvenile Justice Coordinating Council shall be transferred to the New Mexico Sentencing Commission.
- All references in the law to the Criminal and Juvenile Justice Coordinating Council shall be deemed to be references to the New Mexico Sentencing Commission.

FISCAL IMPLICATIONS

Funding may be needed for additional FTE and direct costs. Some direct costs include ISD services and printing; travel costs for commission members and staff to attend commission meetings and out-of-state seminars/conferences; equipment purchases; office supplies; building rental; meeting room and equipment rental; subscriptions; education and training; and advertising. Funding for contractual services may be necessary to develop sentencing reform and develop data models to enable impact assessment analysis.

The CJCC notes that HB 510 will significantly increase costs to the agency. It will be impossible to complete the increased tasks outlined in the bill without a sufficient appropriation.

Additionally, there will be a minimal administrative cost for statewide update, distribution, and documentation of statutory changes.

ADMINISTRATIVE IMPLICATIONS

There will be increased workload, overhead and staff to carry out the additional statutory duties proposed in this bill.

CONFLICT AND RELATIONSHIP

Senate Bill 326 amends sections of the NMSA 1978 including Section 31-18-15 NMSA 1978. House Bill 510 amends Section 31-18-15 NMSA 1978. However, the amendments simply change the name of the CJCC to the New Mexico Sentencing Commission.

POSSIBLE QUESTIONS

1. Under the Act the commission is required to review all proposed legislation that:
 - a. Creates a new criminal offense,
 - b. Changes the classification of an offense,
 - c. Changes the range of punishments for an offense,

and make recommendations to the legislature as to whether proposed changes would improve the criminal and juvenile justice system. Further, the commission is to provide impact estimates, incorporating prison population projections, on all proposed legislation that has the potential to affect correctional resources. Does this mean that the commission must review all impacted legislation prior to its introduction during a legislative session? In the alternative, does it mean that once legislation is introduced, its passage through the committee system is halted until the commission can review the legislation?