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FISCAL IMPACT REPORT

SPONSOR: King DATE TYPED: 03/05/03 HB 748

SHORT TITLE: Sex Offender Registration SB _____

ANALYST: Fox-Young

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			\$0.1 Significant	Significant	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Responses Received From

- Attorney General (AG)
- Administrative Office of the Courts (AOC)
- Corrections Department (CD)

SUMMARY

Synopsis of Bill

House Bill 748 amends Section 29-11A-4 NMSA of the Sex Offender Registration and Notification Act. The current statute requires sex offenders to register with the county sheriff no later than ten days after being released from the custody of the Corrections Department (CD) or being placed on probation or parole. The bill adds a requirement that a sex offender register with the sheriff prior to his departure if he departs the county prior to the passage of ten days.

Registration information shall include motor vehicle registration information for all motor vehicles that the sex offender owns. The same motor vehicle registration information is required of an offender who is a resident of another state but is employed in or attending school in New Mexico.

A registered sex offender who becomes employed, begins a vocation or enrolls at an institution of higher education shall send written notice of that status no later than ten days after becoming employed, beginning a vocation or registration. The same time limitation for providing written

notice applies when there is any change in the sex offender's employment, vocational or registration status.

The bill contains an emergency clause.

Significant Issues

The Attorney General (AG) notes that any amendments to the Act implicate constitutional challenges currently pending in the New Mexico Supreme Court and the New Mexico Court of Appeals. AG reports that relevant cases include Doe v. Department of Public Safety, NMSC No. 27,854; State v. Brothers, NMSC 27,739; State v. Furr, NMSC No. 27,561; and State v. Druktenis, NMCOA No. 22, 437. In addition, two cases pending in the United States Supreme Court will affect sex offender registration acts. These cases are Doe v. Dept. of Public Safety, 271 F.3d 38 (2nd Cir. 2001) (due process challenge to Connecticut's Act) and Doe v. Otte, 259 F.3d 979 (9th Cir. 2001) (ex post facto challenge).

AG notes that the language of the bill appears to require offenders to register upon every crossing of a county border, even if for limited travel.

It appears that the legislation is intended to restrict sex offenders from evading registration. If that is the case, the bill might include language indicating that an individual must register if he departs the county with the intent to return.

Enforcement of the registration requirements will pose a significant burden for sheriffs' departments throughout the state.

FISCAL IMPLICATIONS

District Attorneys, PDD, courts and the AG may see an increase in caseload as a result of the provisions of the bill. AG notes that an increase in the appellate caseload is likely.

The Corrections Department (CD) notes that the provisions of the bill will likely increase the number of sex offenders who fail to register or provide false information when registering (fourth degree felonies). As a result, CD estimates a slight increase in the prison population as well as in the number of offenders on probation or parole.

CONFLICTS

Relates to/Conflicts with HB 449 (Additional registration requirements, lengthens registration periods); Conflicts with SB 569 (Provides for sex offender registration within 24 hours)

TECHNICAL ISSUES

AOC suggests that the statute require information regarding all vehicles owned **or operated** by the offender.

AG recommends including a provision defining "owns," particularly if the Legislature intends that the statute cover partial ownership. JCF/njw