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FISCAL IMPACT REPORT

SPONSOR: Griego DATE TYPED: 2/5/03 HB _____

SHORT TITLE: Speedy Court Hearings for Probationers SB 307

ANALYST: Chavez

APPROPRIATION

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

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

New Mexico Corrections Department (NMCD)
 Administrative Office of the Courts (AOC)
 LFC Files

SUMMARY

Synopsis of Bill

Senate Bill 307 amends Section 31-21-15 NMSA 1978 requiring the court to conduct a hearing on the alleged probation violation no later than forty-eight hours after the probationer was placed in detention following his or her arrest. The bill contains an effective date of July 1, 2003.

Significant Issues

- **Determination of the average number of probation violations statewide**

In order to determine the impact this bill will have on judicial resources, legal and other personnel, a determination of the number of probation violations is crucial. In Bernalillo County, for example, approximately 100 probation violation cases are filed monthly. This equates to 25 probation violations a week.

- **Impact on personnel and judicial resources**

Hearings require the involvement of judicial officers, court personnel, transport officers, security, public defenders, and district attorneys and probation officers and can be informal on the violation charged. The hearings may be time-consuming since it is an evidentiary hearing and the defendant is entitled to due process rights. The Administrative Office of the Courts (AOC), in conjunction with the New Mexico Corrections Department (NMCD), indicates that a speedy hearing would not allow for adequate time for personnel, nor the defense or prosecution to prepare for the case. This is true especially if there are numerous hearings conducted on a daily basis. A joint concern is also how this bill affects probation officers. This bill may impede on the ability of the probation and parole officers to perform the other functions of their job (i.e., home visits, regular office appointments with probationers). Probation officers may be in court on a regular basis and thus, a need may arise for additional probation officers. In addition, a large amount of judicial time would be devoted to conducting hearings.

- **Forty-eight hour time requirement**

The bill makes no exception to those offenders who are arrested on Friday evenings since probation violations would not be heard on Sundays by the courts. The bill also makes no mention of how the forty-eight hour requirement would affect holidays.

Currently, according to the NMCD, most courts set hearings on a routinely weekly basis, not daily, and the forty-eight hour requirement would require daily hearings in some jurisdictions.

FISCAL IMPLICATIONS

The bill contains no appropriation. It is suggested by both NMCD and AOC that there would be a substantial increase in personnel costs to implement the time requirements proposed in the bill.

ADMINISTRATIVE IMPLICATIONS

The scheduling of hearings will require having probation and parole officers available on a frequent basis. Additional resources may be needed with respect to the judiciary, public defenders, district attorneys and the corrections department.

TECHNICAL ISSUES

It is not possible to have hearings within 48 hours for persons arrested on Friday evenings since the 48 hours will be up on Sundays.

OTHER SUBSTANTIVE ISSUES

The NMCD suggests that a longer time requirement for conducting hearings would resolve some of the issues regarding scheduling hearings. NMCD states that hearings could be required within 5 working days. The current law has no time period for hearings after detention.

FC/njw