

NOTE: As provided in LFC policy, this report is intended only for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used for other purposes.

The most recent FIR version (in HTML & Adobe PDF formats) is available on the Legislative Website. The Adobe PDF version includes all attachments, whereas the HTML version does not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

F I S C A L I M P A C T R E P O R T

SPONSOR: Rawson DATE TYPED: 2/28/03 HB

SHORT TITLE: Motor Vehicle License Suspensions SB 471

ANALYST: Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			Significant	Recurring	OSF

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
		(\$Unknown)	Recurring	General Fund

Conflicts with Conflicts with: SB 82, HB 507, SB 248 and HB 139

SOURCES OF INFORMATION

Responses Received From

State Highway & Transportation Department (SHTD)

Administrative Office of the Courts (AOC)

Administrative Office of the District Attorneys (ADA)

Taxation & Revenue Department (TRD)

Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

Senate 471 amends Section 32A-2-29 NMSA by prohibiting a child from signing a penalty assessment for a traffic offense. Under this bill, notice of a traffic offense committed by a child, and a scheduled hearing date, shall be mailed by the court to the parent, guardian or custodian of the child. If the parent, guardian or custodian of the child is not present for the hearing, the court shall reschedule the hearing and subpoena the parent, guardian or custodian to appear at the re-

scheduled hearing.

SB 471 provides a child may work off fines or court fees if the judge waives them and sentences the child to perform community service. A child found guilty of a traffic offense shall be placed on unsupervised probation for no less than 180 days. A child found guilty of reckless driving, careless driving, racing on highways, exceeding the speed limit by 20 mph or more, driving on a suspended or revoked license or otherwise without a license shall be required by the court to complete a driver safety course.

SB 471 provides that a person who drives with a suspended license on a public highway is guilty of a petty misdemeanor. A person convicted of this offense shall receive a fine of not more than \$300 and shall be subject to a suspension of his driving privileges for a period not to exceed ninety days. This bill further provides that upon a second or subsequent conviction within a twelve-month period of driving with a suspended license the offender shall be imprisoned not less than 2 days or more than 90 days or be required to participate in a certified alternative sentencing program for no less than 2 days or no more than 90 days. The court may also impose a fine of not less than \$300 or more than \$600. If a person drives with his license suspended, the period of suspension shall be extended for a period equal to the period of the current suspension.

SB 471 makes a person who drives on a public highway with a revoked license guilty of a misdemeanor. If a person's license was revoked for DWI or a violation of the Implied Consent Act, upon conviction, he shall be imprisoned for not less than 7 consecutive days and shall be fined not less than \$300 or more than \$1,000. The fine and imprisonment are not to be suspended, deferred or taken under advisement. SB 471 further provides that a municipal ordinance prohibiting driving with a revoked license must provide penalties that are no less stringent. Under the Act, if a person is convicted of driving with his license revoked, the motor vehicle the person was driving shall be immobilized for 30 days at the driver's cost, unless immobilization poses an imminent danger to the health, safety or employment of the person's immediate family or the family of the owners of the motor vehicle.

SB 471 further provides that an arresting officer making an arrest for a penalty assessment misdemeanor shall offer the alleged violator the option of accepting a penalty assessment if the violator is 18 or older. If under 18, the alleged violator shall appear in court for a hearing on the offense and the parent, guardian or custodian of the alleged violator shall also appear in court.

Significant Issues

SHTD notes research has shown that revocation or suspension of a driver's license alone does not significantly deter the offender from driving. Most offenders who have a driver's license revoked or suspended will continue to drive unless there are significant consequences in the offender is caught driving with a suspended or revoked license.

FISCAL IMPLICATIONS

The new requirement for all minors to appear in court with a parent on all citations in lieu of signature, admission of fault and payment of a fine without a court appearance, will require many more court settings for municipal, magistrate's and Bernalillo County's Metropolitan Court.

At present a large number of traffic tickets to minors are resolved without a court setting, and if such a setting is required there will be a significant additional caseload in misdemeanor courts. The requirement for the minor to be accompanied by a parent or guardian will also result in a number of postponements in cases, with resultant additional court settings to resolve these cases. Finally, the requirement for the minor to appear before the court upon completion of the 180 days of unsupervised probation will result in yet another increase in court settings.

Dockets in many courts are already overcrowded and unable to absorb the additional settings or extra work required. Significant additional resources would be needed for the courts and probation offices to adequately answer the requirements of this legislation. While the 180 days of probation is designed to be unsupervised probation, there will probably need to be additional resources available in various probation offices to direct offenders towards suitable community service locations, and set forth the proof an offender must show to document completion of the community service.

The ADA states great efforts have recently been undertaken to reduce the number of traffic court settings in Metropolitan Court in Bernalillo County, since the system was clearly overwhelmed with cases requiring a hearing. Additionally, public monies required for the payment of court overtime for police officers in court is extremely scarce. The addition of a significant number of traffic cases in which police officers are required in court will introduce an additional burden to local law enforcement agencies.

The Metropolitan Court, within the last year, has devised and implemented a plan to provide some relief for the overcrowded traffic dockets. This very successful program is called the traffic arraignment program and enables Metro Court to resolve most traffic cases early in the process and with only one case setting. While this program has proven helpful in reducing caseloads in each courtroom and reducing officer overtime, this improvement does not come close to solving the vast over-crowding of Metro's dockets. The addition of a large load of minor drivers' traffic cases, all requiring a minimum of two separate courtroom settings with the judge, runs counter to that Court's efforts to reduce caseload to manageable levels.

Clearly there will be a need for additional staff resources in the courts and the probation departments to fulfill the requirements of SB 471.

In regard revenues, the ADA believes there may actually be a reduction in money presently coming to the state in the form of fines and fees. The requirement of a court setting in lieu of payment of a fine will likely result in a significant number of cases which will result in dismissal due to non-availability of witnesses (usually a police officer), 6 month rule violations, or other events. Increased community service, while beneficial to the community as a whole, can be hard to enforce in a meaningful way without substantial involvement by a probation officer or the Court. Additionally, when community service is more regularly substituted for the payment of a fine, less money from fines will accrue to the state.

ADMINISTRATIVE IMPLICATIONS

SB 471 requires a violator under 18 to appear in court so there will be more traffic cases filed in court and more judicial resources will be called upon during the hearing and in subpoenaing a parent, guardian or custodian who does not attend.

Senate Bill 471 Page 4

SB 471 further requires a child sentenced to community service to return to court to provide evidence of completion of the sentence, requiring further judicial resources to be expended.

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

TRD states many cases in which children sign for a penalty assessment are subsequently appealed. This clearly indicates that not allowing children to sign for penalty assessments would reduce the number of cases that are appealed and may result in a positive administrative impact on the Motor Vehicle Division.

CONFLICT

Conflicts with:

SB 82, Mandatory Vehicle Immobilization

SB 248 and HB 139, DWI Vehicle Seizure

HB 507, Amend Delinquency Act

TECHNICAL ISSUES

The AOC believes the language in Section 1(D) may be duplicative and unclear with regard to a child's participation in community service.

DW/lS