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FISCAL IMPACT REPORT

SPONSOR: McSorley DATE TYPED: 03/09/03 HB _____

SHORT TITLE: Increase Penalties for Larceny SB 869

ANALYST: Fox-Young

APPROPRIATION

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

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with HB 596 (Equitable Sentencing Schedule—conflicting penalties)

SOURCES OF INFORMATION

Responses Received From

Administrative Office of the Courts (AOC)

Attorney General (AG)

Corrections Department (CD)

Public Defender Department (PDD)

No Response

Administrative Office of the District Attorneys (AODA)

SUMMARY

Synopsis of Bill

Senate Bill 869 amends 30-16-3 and 30-16-11, increasing penalties for the offenses of burglary and receiving stolen property.

The bill amends Section 30-16-3, providing the following penalties for burglary:

- A **second degree felony** for unauthorized entry into a dwelling house with intent to commit a felony or theft and
- A **third degree felony** for unauthorized entry into a vehicle, watercraft, aircraft or other movable or immovable structure, with intent to commit a felony or theft.

The bill amends Section 30-16-11 NMSA, providing the following penalties for receiving stolen property:

- A **fourth degree felony** when the value of the property is \$2,500 or less;
- A **third degree felony** when the value of the property is more than \$2,500 but not more than \$20,000;
- A **second degree felony** when the value of the property is more than \$20,000; and
- A **second degree felony** when the property is a firearm.

Significant Issues

Currently, burglary is:

- A **third degree felony** when the offender enters a dwelling house and
- A **fourth degree felony** if the offender enters a vehicle, watercraft or other structure, movable or immovable.

Currently, penalties for receiving stolen property are as follows:

- A **petty misdemeanor** when the value of the property is \$100 or less;
- A **misdemeanor** when the value of the property is over \$100 but not more than \$250;
- A **fourth degree felony** when the value of the property is over \$250 but not more than \$2500;
- A **third degree felony** when the value of the property is more than \$2500 but not more than \$20,000; and
- A **second degree felony** when the value of the property is more than \$20,000.
- A **fourth degree felony** for receiving a stolen firearm if its value is less than \$2500.

The Public Defender Department (PDD) notes that under the provisions of the bill, anyone who commits receiving stolen property valued less than \$2500 is subject to a 4th degree felony. PDD notes that an individual might purchase virtually any nominally valued consumer good and be subject to the penalties of this statute. Because barter, flea markets, garage sales, hand-to-hand transactions and trading thrives in New Mexico, PDD notes that the provisions of the bill may have overly punitive consequences.

FISCAL IMPLICATIONS

The Corrections Department (CD) estimates that the bill will likely result in an increase of approximately 50 to 100 prison commitments each year and a corresponding yearly increase in probation and parole caseloads. As a result, CD estimates that the fiscal impact to the department will likely be significant.

Courts, PDD and district attorneys will likely experiences significant increases in costs as a result of increased penalties. PDD notes that all cases involving receiving stolen property will be heard in district court, as they are all felonies, and that attorney costs in district court are higher than in magistrate court.

CONFLICTS

Conflicts with HB 596 (Equitable Sentencing Schedule).

HB 596 provides that penalties for receiving stolen property are as follows:

A petty misdemeanor where the monetary amount involved is \$100 or less;

A misdemeanor where the amount involved is over \$100 but not more than \$1,000;

A fourth degree felony where the amount involved is over \$1,000 but not more than \$2,500;

A third degree felony where the amount involved is over \$2,500 but not more than \$20,000; and

A second degree felony where the amount involved is over \$20,000.

HB 596 does not alter penalties for receiving a stolen firearm where the value is less than \$2500.

JCF/prr