

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR Park DATE TYPED 01/25/05 HB 102

SHORT TITLE Escape From Corrections Programs SB _____

ANALYST Woods

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			See Narrative		

(Parenthesis () Indicate Expenditure Decreases)

Relates to 31-21-13 NMSA 1978 and 33-9 NMSA 1978

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Corrections Department
 Administrative Office of the Courts
 Public Defender Department
 Administrative Offices of the District Attorneys

SUMMARY

Synopsis of Bill

House Bill 102, Relating To Crimes; Creating The Crimes Of Escape From An Intensive Supervision Program And Escape From A Community Corrections Program, codifies the crimes of Escape From Intensive Supervision and Escape From Community Corrections Programs. Individuals who abscond or escape from intensive supervision or community corrections programs prior to completing a basic prison term can be charged with escape, a fourth degree felony.

There is no appropriation attached to this bill.

Significant Issues

The Corrections Department suggests that to deal with the issue of prison overcrowding, the department requires the ability to implement a controlled release program that would place inmates convicted of non-violent offenses to community corrections or intensive supervision programs, as allowed under current law. However, under present law, an inmate released into such a program before completing his basic sentence and then absconds or escapes from program supervision would not be in violation of the criminal law. The bill distinguishes such misconduct as a criminal offense in order to deter such behavior and seeks to instill public confidence in the program.

The Administrative Office of the Courts (AOC) indicates this bill creates a new felony criminal offense: escape from intensive supervision or community corrections. Creation of this criminal offense may lead to more criminal case filings and could increase the caseload of the district courts. However, the Administrative Office of the District Attorneys (AODA) suggests that it is difficult to prove a person did not intend to return to the program, especially if they are apprehended shortly after escaping from the program.

PERFORMANCE IMPLICATIONS

The Corrections Department indicates the bill will indirectly improve the performance of the department's controlled release program in that the public will have more confidence in the program and due to the looming issue of criminal prosecution, program participants will be discouraged from absconding. The department further observes that without the penalty of a violation of the criminal law, the participants will not be discouraged from absconding or escaping from the program.

The AOC notes that the courts are participating in performance-based budgeting and it is unknown if enactment of this bill would impact performance measures as they relate to judicial budgeting.

FISCAL IMPLICATIONS

While there is no appropriation associated with this bill, the Corrections Department indicates the bill could slightly increase costs if a program participant absconded from supervision and then was convicted of escape. The department anticipates that the number of convictions for the new offense would be small, perhaps no more than three incidents each year. However if the department were to ever utilize controlled release more liberally, there would probably be more escapes and more convictions for escape. In that event, there could be a moderate fiscal impact on the department. The department offers the following annualized "cost per client" for comparison:

- Contract/private prisons: \$20,720 per year for males, \$26,313 per year for females
- Standard supervision probation and parole: \$1,452 per year
- Intensive supervision programs: \$2,852 per year
- Department-operated community corrections programs: \$4,371 per year
- Privately-operated community corrections programs: \$9,151 per year
- Residential community corrections programs: \$20,725

ADMINISTRATIVE IMPLICATIONS

The Corrections Department analysis is uncertain, suggesting that on one hand, the bill could slightly reduce the administrative burden on Department staff if it deterred program participants from absconding; however, it could also slightly increase the administrative burden on prison personnel if there was a significant increase in prison sentences for the new offense. Both the AOC and AODA note that the bill could result in more cases referred to district attorneys for prosecution thus increasing current workloads.

ALTERNATIVES

The AODA suggests that, from a prosecutive perspective, substituting the language “and is apprehended while away from the program” for “with the intent not to return” could have merit.

BFW/lg