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FISCAL IMPACT REPORT

SPONSOR Ingle DATE TYPED 2/21/05 HB _____

SHORT TITLE Stun Guns as Deadly Weapons SB 818

ANALYST Medina

APPROPRIATION

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

(Parenthesis () Indicate Expenditure Decreases)

Relates to the Criminal Code

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Attorney General
 Corrections Department
 Administrative Office of the District Attorneys (AODA)

SUMMARY

Synopsis of Bill

Senate Bill 818 amends the Criminal Code to define a stun gun as a type of deadly weapon. A stun gun is defined in the bill as an electroshock device capable of projecting or administering an electric shock that can temporarily stun or incapacitate a person. According to the AODA, stun guns would become deadly weapons for the purposes of prosecutions and penalties under those sections dealing with the use of deadly weapons to commit a crime(s). This would also include Section 30-7-1 through Section 30-7-22 that deal with weapons and explosives.

Significant Issues

According to the AODA, many other crimes have higher penalties for the use of a deadly weapon in commission of the crime. Some of the more common examples are Aggravated Assault, Aggravated Battery, Criminal Sexual Penetration, Robbery, etc.

The AODA suggests that it can be argued that stun guns, as opposed to other weapons, are not capable of producing death or great bodily harm. Therefore, a weapon that incapacitates a person by an electric shock is different than a weapon that inflicts life-threatening injuries.

TECHNICAL ISSUES

The Attorney General recommends the following:

“Senate may want to consider amending the bill to replace “or” with “and” on page 2, line 7, so that prods and other hand-held devices are clearly exempted. Some ambiguity is created by the use of the word “or.”

OTHER SUBSTANTIVE ISSUES

The Attorney General states:

“Although a stun gun is not ordinarily considered a “deadly weapon” in the popular sense and lay use of that term, recent investigative reporting indicates that as many as eleven people have died nationwide after a shock was administered with this type of weapon. It should also be noted that other weapons that are not necessarily lethal are included in the current definition of “deadly weapon” such as slung shots and bludgeons. Furthermore, these devices are increasingly being purchased for private use and as recently as last week, a “taser” was allegedly used by a “bouncer” to attack some customers at a tavern in Gallup. Source: *Gallup Independent*, Feb. 7, 2005.”

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

A stun gun would not be considered a deadly weapon under the Criminal Code definitions of such, being Section 30-1-12 NMSA 1978.

DXM/rs