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FISCAL IMPACT REPORT

SPONSOR McSorley DATE TYPED 3/10/05 HB _____
SHORT TITLE Sex Offender Registration Act Effectiveness SB SJM 38
ANALYST Ford

APPROPRIATION

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

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 165

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
Attorney General (AGO)
Department of Corrections (NMCD)
Public Defender Department (PDD)
Public Education Department (PED)

SUMMARY

Synopsis of Bill

Senate Joint Memorial 38 makes a number of findings regarding New Mexico's Sex Offender Registration and Notification Act (Act) and calls upon the New Mexico Sentencing Commission (commission) to conduct a study on the efficacy of the Act to include statistics gathered from other states as to the rates of sex crimes before and after implementation of the statute. The commission is to report its findings to the appropriate legislative committee by October 2005.

The memorial further resolves that the study include statistics from states that have more experience with the implementation of sex offender registration and notification provisions so that such information can be used in New Mexico to prevent possible problems and legal challenges. The memorial calls on all state agencies dealing with the implementation of the Act to cooperate with the commission.

Significant Issues

Senate Joint Memorial 38 makes the following findings:

- New Mexico has now joined the ranks of states that require persons convicted of sex crimes to register and report their whereabouts for up to twenty years after they have served their time after conviction;
- States with decades of experience in establishing and maintaining a sex offender registry could serve as models for New Mexico's efforts to implement the Sex Offender Registration and Notification Act;
- Washington state, which has had a sex offender registration and notification act in place for well over a decade and is the only state that has published statistics on the benefits of the act, reports no reduction in sex crimes;
- New Mexico's highly publicized sex offender registry does not contain current information for all sex offenders, has wrongly included names of innocent persons and is not entirely accurate;
- Maintaining the sex offender registry is time consuming and uses law enforcement resources;
- Posting a sex offender registry on the internet, where it is available to anyone in the world, can be seen as a second punishment for a crime for which the person convicted has already served time;
- Publicizing the sex offense can re-victimize a crime victim;
- The common perception that police are monitoring all sex offenders and that a registry can be all-inclusive can lead to a false sense of security;
- National statistics indicate that sex offenders are usually well-acquainted with their victims, often being relatives of or persons in authority over the victims, and their whereabouts are well-known within their communities;
- In New Mexico, some small law enforcement agencies may soon face a choice between monitoring sex offenders and pursuing active crimes, and some law enforcement agents have been forced to provide protections against vigilantes seeking to retaliate against sex offenders whose names are published in the registry.

The Sex Offender Management Board was created during the 2003 Special Session for the purpose of proposing sex offender registration and notification changes in order to comply with minimum federal requirements. House Bill 165 reflects the board's work to bring New Mexico law into compliance and may help improve the accuracy of information in the registry.

In response to the memorial's finding that posting on the registry can be seen as a second punishment for a sex offense, the AGO notes that New Mexico case law has held that the Act enacts a civil, remedial, regulatory, non-punitive law.

FISCAL IMPLICATIONS

The requested study would result in costs to the commission as well as to other agencies that deal with implementation of the Act. The total costs are likely to be minimal.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 165 would enact changes to the Act to comply with federal requirements.

OTHER SUBSTANTIVE ISSUES

The memorial calls for completion of the study by October, 2005. Given the complexity of the issue, this may be too ambitious a timeline.

EF/yr