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FISCAL IMPACT REPORT

ORIGINAL DATE 2-10-2006

SPONSOR Larranaga LAST UPDATED _____ HB 336

SHORT TITLE Drug-Free Residential Zones SB _____

ANALYST Dearing

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	NFI*		
	*Please See Narrative		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 New Mexico Department of Public Safety (NMDPS)
 New Mexico Public Education Department (NMPED)
 Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

Section 1: HB 336 amends Section 30-31-2 NMSA 1978 to add “drug-free residential zone” to the definitions used in the Controlled Substances Act. The zone is defined as: “a dwelling designed and used as a residence, including manufactured homes, condominiums and apartments, and the area within one thousand feet of the exterior boundary of the dwelling.”

The bill also redefines the definition of “drug-free school zone” to mean: “a school or property used for school purposes and the area within one thousand feet of the school property line.”

Section 2: HB 336 amends Section 30-31-20 NMSA 1978 to provide that intentional trafficking of a controlled substance in a drug-free residential zone is a first degree felony.

Section 3: HB 336 amends Section 30-31-22 NMSA 1978 to apply the specified penalties for distribution or possession with intent to distribute a counterfeit substance, and creation or delivery or possession with intent to deliver a counterfeit substance to activity within a drug-free residential zone.

Section 4: HB 336 amends Section 30-31-23 NMSA 1978 to apply the specified penalties for possession of a controlled substance to activity within a drug-free residential zone.

FISCAL IMPLICATIONS

*There will be a minimal administrative cost for statewide update, distribution, and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws, and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

According to the Department of Public Safety, by providing for enhanced penalties of trafficking or possession of Scheduled Controlled Substances in residential areas and in all school zones, including post-secondary schools, it would appear that the penalty enhancement would lead to some incongruous results in that, persons convicted of trafficking or possessing drugs in public areas or on the roadways (where a large number of load cases come from) would be subject to disparate penalties. In fact, persons committing public offenses would be subject to lesser penalties than a person possessing or distributing the same amount of drug in their own home. If the purpose of this bill is to reduce drug use, it would make more sense to simply enhance the penalties for possession and trafficking across the board.

According to the Administrative Office of the Courts, there is some clarification necessary regarding the definition of “school,” as all qualifiers have been removed from the term within this legislation, having the effect that any edifice called a “school,” whether for children or adults, used for various and as yet undefined teaching, would fall under the purview of “drug-free school zone.”

PERFORMANCE IMPLICATIONS

According to the Administrative Office of the Courts, the courts participate in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type
- Clearance rate

The bill does not directly impact PED performance measures. The bill supports zero tolerance of drugs in all schools, including public, private and parochial schools.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with HB 179, Prison Time for Methamphetamine Manufacture, and SB 195 Methamphetamine Trafficking Penalties.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Controlled Substances Act will not specifically address trafficking, distribution and possession within “drug-free residential zones”; the definition of “drug-free school zones” will continue to be limited to public schools and will continue to specifically exclude postsecondary schools.

PD/nt