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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/21/08

SPONSOR Chasey LAST UPDATED \_\_\_\_\_ HB 109

SHORT TITLE Study Collateral Consequences of Arrest SB \_\_\_\_\_

ANALYST Peery-Galon

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	\$50.0	Non-recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Corrections Department (NMCD)  
 Administrative Office of the District Attorneys (AODA)  
 Public Defender Department (PDD)  
 Administrative Office of the Courts (AOC)  
 New Mexico Sentencing Commission (NMSC)  
 Public Education Department (PED)

#### No Responses Received From

Adult Parole Board  
 University of New Mexico

### SUMMARY

#### Synopsis of Bill

House Bill 109 appropriates \$50.0 from the general fund to the New Mexico Sentencing Commission to convene a task force to study collateral consequences of criminal arrest, conviction and extended periods of incarceration and to make recommendations on how to neutralize or eliminate those consequences to the appropriate interim legislative committee before November 1, 2008. The task force is to include representatives from the New Mexico District Attorney Association, Public Defender Department, University of New Mexico School of Law, New Mexico Criminal Defense Lawyers Association, New Mexico Women's Justice Project, Adult Parole Board, the adult probation and parole division of the New Mexico Corrections Department and any other interested persons whose expertise may be beneficial to the task force.

## **FISCAL IMPLICATIONS**

The appropriation of \$50.0 contained in this bill is a non-recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2009 shall revert to the general fund.

AODA notes that if the funding does not cover travel and per diem, those agencies participating in the task force would incur some cost.

NMSC states it can do research if funded at an adequate level. NMSC reports the appropriation would be expended for data collection and analysis, review of the literature, per diem and mileage, and report writing.

## **SIGNIFICANT ISSUES**

NMCD states the proposed legislation assumes that the collateral consequences of arrest, conviction and extended periods of incarceration should be eliminated or neutralized. NMCD also notes that the proposed legislation does not define delineate what collateral consequences to which it is referring.

AODA states the proposed legislation does not state what is meant by “collateral consequences” or why it is desired to neutralize them. AODA notes a collateral consequence of incarceration of a violent offender is a safer community. AODA states if the proposed legislation is to look at the impact of a felony record on the availability of workers in the workforce, or the ability of an offender to make restitution, then the bill should be more narrowly defined.

PDD states the proposed legislation could improve the overall operation of the criminal justice system and to decrease recidivism. However, the department is not aware of whether or not sufficient funding exists to support this initiative.

NMSC states in recent literature, collateral consequences are the indirect consequences of criminal conviction. These consequences comprise a mixture of federal and state statutory and regulatory law, as well as local policies. Some of the most notable consequences include temporary or permanent ineligibility for public benefits, public or government-assisted housing, and federal student aid; various employment-related restriction; disqualification from military service; civic disqualifications such as felon disenfranchisement and ineligibility for jury service; and, for non-citizens, deportation. NMSC states collateral consequences could be considered as economic “negative externalities.” NMSC notes the issue of collateral consequences is very broad and would have to be limited in scope to meet the time limits and funding level of the proposed legislation. NMSC reports the American Bar Association points out some groups have asserted that certain collateral consequences benefit society. Collateral consequences may serve an important and legitimate public purpose, such as keeping firearms out of the hands of persons convicted of crimes of violence, protecting children from individuals with histories of abuse, or barring persons convicted of fraud from positions of public trust.

## **PERFORMANCE IMPLICATIONS**

AODA expresses concern whether the study can be completed by the November 1, 2008 deadline.

**ADMINISTRATIVE IMPLICATIONS**

NMCD notes if the proposed legislation leads to legislation reducing prison population, this would reduce the department's inmate population. However, if the proposed legislation leads to placement of more supervision duties on probation and parole officers, this would negatively impact the department's ability to provide supervision to parolees and probationers.

NMCD reports that one person will be designated to sit on the task force, and will be pulled away from his or her regular duties on a part-time basis. NMCD states it can absorb the administrative burden this may have, and is happy to be represented on the task force.

NMSC states it would administer the funding related to the management of the task force.

**OTHER SUBSTANTIVE ISSUES**

NMCD notes it would probably be helpful to the task force to have a prison and probation/parole employee attend the task force meeting. The task force would get a more complete picture of what happens both in prison and probation/parole.

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