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## FISCAL IMPACT REPORT

ORIGINAL DATE 03/07/11

SPONSOR Martinez, R. LAST UPDATED \_\_\_\_\_ HB 519

SHORT TITLE Incarceration for various convictions SB \_\_\_\_\_

ANALYST Segura

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	None		

(Parenthesis ( ) Indicate Expenditure Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$2.0	\$2.0	\$6.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Parole Board (PB)

NM Sentencing Commission (NMSC)

New Mexico Corrections Department (NMCD)

### SUMMARY

#### Synopsis of Bill

House Bill 519 proposes to amend sections of the Criminal Code. The bill would allow incarceration in the Corrections Department for misdemeanor convictions, require incarceration in the Corrections Department for all felony convictions, and prohibit imposition of parole in certain circumstances.

According to NMCD, House bill 519 would require NMCD to incarcerate all felony offenders sentenced to imprisonment and all misdemeanor offenders sentenced to imprisonment for a term of one year or more. The bill would authorize NMCD not to incarcerate offenders serving an incarceration period of less than one year if those offenders were placed into a community

corrections program. The proposed legislation would keep the option for NMCD to incarcerate felony offenders serving a term of imprisonment of eighteen months or less in a county jail if NMCD has entered into a joint powers agreement with that particular jail and if NMCD agrees to pay a negotiated amount to the county jail to house those inmates. Under current law, that option is limited to those offenders sentenced to one year or more but not more than eighteen months but House Bill 519 would open up this option to all offenders sentenced to imprisonment for eighteen months or less.

In addition, the bill proposes to allow sentencing judges not to impose a parole term for any felony offender, except sex offenders, serving a period of incarceration of one year or less. Under current law, if a felony offender serves any time at all in a NMCD prison, a parole term attaches.

### **FISCAL IMPLICATIONS**

Data collected by the NMSC as part of the Detention Facilities Reimbursement Act, reflects that approximately 7% (475) of the 6,790 arrestees held for counties on June 30, 2010 were serving felony sentences that were under one year and the judge opted to hold the arrestee locally rather than send them to NMCD. If the bill is enacted all of these offenders would be sent to NMCD. Given the relatively short sentence length of these types of offenders, NMCD could spend significant resources classifying them only to subsequently release them in less than 6 months.

The NMCD indicates that enactment of the bill would immediately fill NMCD to its rated maximum capacity. NMCD does not have the room to house all or even a quarter of the offenders covered in this bill. NMCD is currently at 90% of its rated capacity for its male population and is at 98 % rated capacity for female population. The department states that while the bill may indeed serve to drastically lessen county jail populations, it simply transfers those inmates to the custody of NMCD.

House Bill 519 contains no appropriation to cover the increase costs incurred to house these inmates in its current facilities.

### **SIGNIFICANT ISSUES**

NMCD provides the following information:

The cost to incarcerate a male inmate ranges from an average of \$49,347 per year in a state owned/operated facility to \$31,239 per year in a contract/private prison. The cost to house a female inmate at a privately owned/operated facility is \$33,239 per year. Because the capacities of medium and higher custody state owned prisons are essentially at capacity, any net increase in inmate population will likely be housed at a contract/private facility.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

House Bill 519 relates to HB 529

### **ALTERNATIVES**

The NMCD states that this bill should not be enacted, but other less drastic means of reducing the county jail population are pursued.