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FISCAL IMPACT REPORT

ORIGINAL DATE 01/31/12

SPONSOR Egolf LAST UPDATED _____ HB 222

SHORT TITLE Increase DWI Homicide Penalties SB _____

ANALYST Sánchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	No fiscal impact until probably FY15. Dependent on number of convictions. Each offender costs NMCD on average \$33.9 thousand per year.				Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB12

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Defender Department (PDD)

Administrative Office of the Courts (AOC)

New Mexico Corrections Department (NMCD)

SUMMARY

Synopsis of Bill

House Bill 222 proposes to amend the Section 66-8-101 of the Motor Vehicle Code to include vehicular homicide by a person with an alcohol content on sixteen one hundredths or more in the person's blood or breath within three hours of driving the vehicle and the alcohol concentration results from alcohol consumed before or while driving the vehicle. Such an action would result in a second degree felony. The amendment to the law would be effective Date July 1, 2012.

FISCAL IMPLICATIONS

The New Mexico Corrections Department (NMCD) states in its response that by increasing the penalty from a third degree felony to a second degree felony for this crime when the offender's blood or breath test is sixteen one hundredths or higher and by increasing the sentence enhancement for all offenders convicted of this crime, the bill will eventually increase NMCD's prison population to some degree. This will occur because the bill will increase the length of the prison sentences of offenders convicted of this crime. It is difficult to estimate the exact fiscal impact of this bill. It is likely to eventually result in a minimal to moderate increase in NMCD's

inmate population. The bill contains no appropriation to cover the increased costs to NMCD.

The classification of an inmate determines his or her custody level, and the incarceration cost varies based on the custody level and particular facility. The cost to incarcerate a male inmate ranges from an average of \$36,700 per year in a state owned/ operated prison to \$30,093 per year in a contract/private prison (where primarily only level III or medium custody inmates are housed). The cost to house a female inmate at a privately owned/operated facility is \$32,408 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 have to be housed at a contract/private facility.

The Public Defender Department (PDD) reports that while any increase in penalty is likely to have some concomitant increase in the number of criminal trials, any upswing in criminal trials resulting from the passage of this bill is likely to be absorbed in the ordinary course of business.

The Administrative Office of the Courts (AOC) reports that 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.

Based on increasing the length of incarceration from six year to 15 years with the possibility of earning meritorious time, the NMCD would see the first group of offenders starting to serve their time in FY17. Currently, it costs the department an average of \$33.9 thousand per year to house inmates in the New Mexico penal system.

SIGNIFICANT ISSUES

The NMCD reports that this bill will negatively impact NMCD's ability to perform prison-related services (with current levels of staffing) if it results in moderate to substantial increases in the NMCD prisoner population.

The AOC states in its response that as penalties become more severe, defendants may invoke their right to trial and their right to trial by jury. More trials will require additional judge time, courtroom staff time, court room availability and jury fees. These additional costs cannot be quantified at this time.

PERFORMANCE IMPLICATIONS

According to the AOC, 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.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Related to HB12

ALTERNATIVES

The NMCD reports that there are no alternatives because stiffer penalties for DWI crimes appear to be needed to enhance public safety and to deter further DWIs.

Leading experts in criminal justice reform include treatment along with punishment as part of the solution to reduce DWI.

ABS/lj