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FISCAL IMPACT REPORT

ORIGINAL DATE 01/29/13

SPONSOR McSorley LAST UPDATED 02/21/13 HB _____

SHORT TITLE DNA Administrative Center SB 149/aSJC/aSFC

ANALYST Trowbridge

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		
	\$13.8	\$13.8	Recurring	Other State Funds

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Corrections Department (NMCD)
Department of Public Safety (DPS)

SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee amendment to Senate Bill 149 a eliminates language regarding money withdrawn from the DNA Identification System Fund; clarifies the definition of “covered offender;” and establishes the DNA Oversight Committee as a funder pursuant to Section 29-16-13 NMSA 1978. The amendment clarifies that covered offenders will be charged the DNA fee each time they are convicted and also clarifies that the New Mexico Corrections Department will collect the DNA fee from offenders transferred to New Mexico from other states pursuant to interstate compacts. Additionally, the amendment makes a grammatical correction, appropriates money and investment income to the administrative center defined in the bill and deletes language pertaining to the withdrawal of money by the DNA oversight committee from the DNA Identification System Fund.

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to Senate Bill 149 clarifies that it is the chief of the law enforcement agency where the administrative center is located who shall select the head of the administrative center, not the law enforcement agency itself.

Synopsis of Original Bill

Senate Bill 149 proposes to amend several sections of the NMSA related to DNA identification, funding oversight and placement of the Administrative Center for DNA Processing.

Section 1 of the proposed bill seeks to amend Section 29-16-3 regarding definitions. Changes include new language to covered offenders such that comparable proceedings under State, Federal or Military law are considered.

Section 2 of the Act proposes to amend Section 29-16-4 regarding the Administrative Center. Current language regarding the Administrative Center to be an appropriate unit of the Department of Public Safety (DPS) or such other qualified law enforcement agency is deleted. Additionally, paragraphs C and D of the current section are deleted which provide for the Secretary of DPS to designate a crime laboratory to function as the Administrative Center. New language is added such that the Administrative Center shall be located at the crime laboratory of the law enforcement agency for the largest municipality in a class A county having a population of more than 500,000 at the last decennial census. Additionally, language is added that the law enforcement agency where the center is located shall select the head of the Administrative Center with the approval of six members of the DNA Oversight Committee. Additionally, requirements are stated for the head of the Administrative Center. Further, new language provides that the DNA Oversight Committee shall enter into a written agreement with the law enforcement agency where the Administrative Center is located and may designate the Attorney General to enter into the agreement on its behalf and with its approval.

Section 3 proposes to amend Section 29-16-5 regarding the DNA Oversight Committee and adds the following language at paragraph H: “the DNA Oversight Committee shall designate and approve the location of the Administrative Center as provided in Section 29-16-4 NMSA 1978.”

Section 4 of the bill proposes to amend Section 29-16-11 regarding assessment and collection of the DNA fee. New language is added which requires the New Mexico Corrections Department (NMCD) to collect the DNA fee from the covered offender and deposit that fee in the fund. Additionally, when a covered offender is transferred to New Mexico from another state pursuant to an interstate compact, the NMCD shall assess and collect the DNA fee of \$100.00 and deposit that into the fund.

Section 5 proposes to amend Section 29-16-13 regarding DNA Identification System Fund and procedures. New language is proposed which requires the DNA Oversight Committee to withdraw money from the fund as necessary to implement the purposes of the DNA Identification Act. Additionally, it should be noted new language proposed requires that the law enforcement agency housing the Administrative Center shall annually certify to the DNA Oversight Committee and the State Treasurer’s Office that all money withdrawn from the fund was expended in accordance with this section and shall provide a accounting of the funds as directed by the Committee or the State Treasurer’s Office.

FISCAL IMPLICATIONS

The DPS indicates there are minimal yet indeterminate fiscal implications to the DPS from passage of the proposed legislation.

The NMCD states that the bill does not generate any revenue for the NMCD or has any direct operating budget impact on the NMCD because any DNA fees collected must be placed in the DNA fund (pursuant to 29-16-13). Pursuant to Section 29-16-13, the fees must be used to pay the New Mexico crime laboratory's expenses and other reasonable expenses associated with the purposes of the DNA Identification Act.

The NMCD already generally collects the \$100 DNA fee from felony offenders (convicted in New Mexico) while those offenders are on probation or parole. Under this bill, the NMCD would now be able to collect the DNA \$100 fee from approximately 83 inmates who were convicted in other states but are currently in the NMCD prisons pursuant to the interstate compact; and from any such other inmates sent to the NMCD in the future pursuant to the interstate compact. As a result of this bill, the NMCD would also now be able to collect the DNA fee from approximately 2,100 interstate compact offenders serving probation or parole in New Mexico but who were convicted in other states; and then also collect the DNA fee each year from approximately 330 new out of state (interstate compact) offenders sent to serve their probation or parole supervision periods in New Mexico.

The increased revenue is based on the number of offenders on interstate compact, and on the NMCD's ability to collect the fee from probationers and parolees at a collection rate of about one third or 33 percent each year. The collections of the fee are also dependent on the number of interstate compact offenders ultimately sent to New Mexico, which could increase or decrease in the future.

TECHNICAL ISSUES

Section 5 of the bill may not allow for proper financial control since the committee does not have the ability to account for revenue in the fund. The relationship between the committee the state or any administrative agency which can be held accountable for the fund is unclear.

SIGNIFICANT ISSUES

The portion of this bill pertaining to Section 29-16-11 (A) and (B) is identical to a bill being sponsored and promoted by the NMCD (and which has not yet been filed). The NMCD's bill authorizes it to additionally collect the \$100 DNA fee from interstate compact felony offenders serving prison time or on probation/parole supervision in New Mexico, just like this bill does.

The DPS indicates that most significant issues presented by the proposed legislation are the removal of the Secretary of the DPS and that authority from the Act. Currently the Act allows the Secretary of the DPS to designate where the DNA Administrative Center shall be housed. The DPS maintains that with the removal of this language, and the permanent designation as Albuquerque for the seat of the Administrative Center, there may be less state oversight of the expenditure of these funds.

According to the 2010 Federal Census, the only municipality with a population of 500,000 or more is Albuquerque in Bernalillo County.

ADMINISTRATIVE IMPLICATIONS

The NMCD staff will have to collect the DNA fee from a relatively small number of more offenders (those in New Mexico pursuant to an interstate compact). The NMCD should be able

to absorb this administrative burden with no additional FTEs, especially after the NMCD collects the fee from those offenders already in the state pursuant to an interstate compact. The number of new offenders sent to New Mexico for incarceration or probation/parole supervision each year is relatively small.

The DPS indicates that there are possible implications from passage of the proposed legislation in that proposed changes to the Act may require additional Grants Management work by the DPS. These changes are expected to be small.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The NMCD states that Section 29-16-11 of this bill is identical to the NMCD's soon to be introduced bill regarding the same subject matter.

ALTERNATIVES

In section 3 add: the DNA oversight committee is administratively attached to the NMCD (or DPS) which will provide budgeting, financial management, and administration for the committee.

One alternative which the Department proposes for consideration is the inclusion of another state agency level actor, appointed by the Governor, to the current list of DNA Oversight Committee members found at NMSA 1978, Section 29-16-5. In this way it is believed the State can maintain appropriate participation in the oversight of expenditures regarding DNA funding.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The NMCD indicates it will experience a continued inability to collect the fee from a fairly small but significant number of interstate compact offenders.

The DPS states that the consequences of not enacting this bill will be to leave the current statute in full force and effect. This would mean that the Secretary of the DPS could alter the location of the DNA Administrative Center to another venue. Currently the Administrative Center is housed with the Albuquerque Police Department.

TT/svb:bm