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FISCAL IMPACT REPORT

ORIGINAL DATE 1/21/2006
 LAST UPDATED 1/23/2006 HB 65

SPONSOR Swisstack

SHORT TITLE Penalties for Street Gang Recruitment SB

ANALYST McOlash

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to: HB 60 Street Gang Activity Sentencing Requirements

SOURCES OF INFORMATION

LFC Files
 Administrative Office of the Courts (AOC) – 2005
 Administrative Office of District Attorneys (AODA) – 2005
 Attorney General’s Office (AGO) – 2005

SUMMARY

Synopsis of Bill

House Bill 65 enacts a new section of the Criminal Code to define “gang recruitment” and enhances the penalties for recruitment and inducement of minors. House Bill 65 is a duplicate of HB 226aa from 2005.

FISCAL IMPLICATIONS

None

SIGNIFICANT ISSUES

Definitions

- a. “gang recruitment” consists of the solicitation or recruitment of another to participate in patterns of gang activities or to promote or assist in felonious conduct.
- b. “criminal street gang” means an ongoing, formal or informal organization, as-

sociation or group of three or more, having a common name or identifying sign or symbol, whose members engage in or have engaged in, individually or collectively, a pattern of criminal gang activity, and have as one of its primary activities the commission of one or more of a list of specified felonies.

- c. “pattern of criminal gang activity” means the commission of, attempted commission of, conspiracy to commit or solicitation to commit two or more of the listed felonies by members of a criminal street gang, provided the offenses occurred within three years of each other and were committed on separate occasions by two or more persons.

Penalties

- a. “gang recruitment”
basic sentence = misdemeanor
enhanced sentence for recruitment of minors = fourth degree felony
- b. “gang recruitment by threat or violence”
basic sentence = fourth degree felony
enhanced sentence for recruitment of minors = third degree felony

PERFORMANCE IMPLICATIONS

The AOC has indicated (2005) that the enactment of this bill may impact the performance-based budgeting measures which may result in the need for additional resources. New laws or amendments to existing laws have the potential to increase caseloads in the courts, according to the AOC.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 65 enhances the penalties for various criminal gang activities.

OTHER SUBSTANTIVE ISSUES

The AODA indicated that similar legislation was passed in California in 1988. AODA anticipates there would be challenges to this legislation under both the United State Constitution and the New Mexico Constitution.

BMC/yr:nt