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## FISCAL IMPACT REPORT

**SPONSOR** Ortiz y Pino **ORIGINAL DATE** 1/22/08  
**LAST UPDATED** 1/29/08 **HB** \_\_\_\_\_

**SHORT TITLE** Prohibit Terrorism **SB** 193/aSPAC

**ANALYST** Peery-Galon

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

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$0.1	\$0.1	\$0.1	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Sentencing Commission (NMSC)  
Homeland Security and Emergency Management Department (HSEMD)  
Administrative Office of the Courts (AOC)  
New Mexico Corrections Department (NMCD)  
New Mexico Municipal League

#### No Responses Received From

Department of Military Affairs  
Association of Counties

### SUMMARY

#### Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment inserts on page 2, line 3, after “an” the word “intentional”, and on page 2, line 3, strikes “a” and inserts the wording “an intentional”.

#### Synopsis of Original Bill

Senate Bill 193 adds definitions to the Antiterrorism Act for “act of terrorism” and “weapon of mass destruction.” The proposed legislation defines an act of terrorism as violence or threat of violence likely to cause death or great bodily harm or property damage in excess of \$125,000 and intended to intimidate or coerce the public or government entity. Weapons of mass destruction is defined as any device capable of releasing a radioactive, biological, toxic or chemical agent in any form or by any means that will or may reasonably be expected to produce

death, bodily harm or illness in a civilian population or to destroy an agricultural crop, livestock or a food supply. The proposed legislation removes “civil disorder” as a terrorist act and increases penalties for terrorist crimes. The proposed legislation penalizes a person who commits an act of terrorism or uses a weapon of mass destruction guilty of a first degree felony.

An offender who trains or receives training in the use of weapons with the intent to further an act of terrorism is increased from a fourth degree to a third degree felony.

### **FISCAL IMPLICATIONS**

AOC notes there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions.

NMCD states the increase in penalty and the addition of a new felony offense could have a minimal to moderate increase the department’s costs by increasing the inmate population and probation/parole caseloads. NMCD notes this cost could be offset to very minimal degree by the revenue generated by the probation/parolee monthly supervision fees paid by convicted offenders during their probation/parole period.

Based on FY06 actual expenditures, the average annual cost to incarcerate an individual in a NMCD correctional facility is \$31,239, and the average annual cost of probation and parole/community corrections client is \$1,343.

### **SIGNIFICANT ISSUES**

HSEMD states the Senate Public Affairs Committee amendment raises the burden of proof by further requiring that the act of terrorism is an intentional act of violence or intentional threat of violence.

New Mexico Municipal League states the Senate Public Affairs Committee amendment would require an act of violence or threat of violence to be intentional before they would be considered to be acts of terrorism. The amendment adds the requirement that criminal intent be established before an act of violence or threat of violence be considered an act of terrorism.

HSEMD states the definition of “civil disorder” was properly removed to better define acts of terrorism which will decrease the possibility of individuals being charged with violations of the statute for actions that may not be true acts of terrorism.

AOC states there may be concern over what speech may constitute an “act of terrorism” and about the chilling effect of the proposed legislation may have upon political speech. AOC also notes that as penalties increase, potential imprisonment or an increase in the length of potential imprisonment tends to inspire defendants to retain attorneys and demand jury trials. Indigent defendants are entitled to public defender services.

### **PERFORMANCE IMPLICATIONS**

AOC states the proposed legislation may have an impact on the measures of the district courts in the following areas: cases disposed of as percent of cases filed and percent change in case filings by case type.

NMCD states the proposed legislation could negatively impact the department's program if there were more than just a few additional convictions. More inmates and more probationers/parolees mean existing staff has less time and resources to devote to any one inmate or probationer/parolee.

### **ADMINISTRATIVE IMPLICATIONS**

AOC states 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.

NMCD states if the proposed legislation increases by a large number the inmate population or probation/parolee caseloads, it will increase the workloads of current prison and probation/parole staff. At some point, additional FTE will be needed by the department. NMCD notes if several new crime bills are passed in this or any legislative session, the potential for the need to hire additional FTE and for an increase in the prison population and probation/parole caseloads grows significantly.

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