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FISCAL IMPACT REPORT

SPONSOR Garcia ORIGINAL DATE 02/07/11
LAST UPDATED _____ HB _____
SHORT TITLE Child Abuse as Leaving Kids in Certain Cars SB 213
ANALYST Peery-Galon

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$62.4	\$62.4	\$124.8	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
Administrative Office of the District Attorneys (AODA)
Public Defender Department (PDD)
Children, Youth and Families Department (CYFD)
New Mexico Corrections Department (NMCD)

SUMMARY

Synopsis of Bill

Senate Bill 213 amends Section 30-6-1 NMSA 1978 regarding the criminal definition of child abuse to include placement of a child in a motor vehicle under circumstances that manifest an extreme indifference to human life and that creates grave risk of death to a child under eight years of age.

FISCAL IMPLICATIONS

AOC noted 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. 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. Efforts to quantify specific fiscal impact by case are underway, but specific information is not available at this time.

NMCD reported the additional felony convictions resulting from the proposed legislation would increase the department's costs by leading to minimal to moderate increases to the inmate population and probation/parole caseloads. The estimated three year operating budget impact assumes two offender convictions in FY12 that continue to service prison time in FY13, and that both offenders are sent to prison instead of being placed on probation. NMCD noted it is always difficult to predict or estimate number of new felony convictions of any expanded crime bill with any certainty. There is not appropriation in the proposed legislation to cover any increasing operating expenses for NMCD.

NMCD reported 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 (where primarily only security level II or medium custody inmates are housed). The cost to house a female inmate at a privately owned/operated facility is \$33,258 per year. The cost per client in probation and parole for a standard supervision program is \$1,521 per year, in intensive supervision programs is \$3,445 per year, and in community corrections is \$3,475 per year.

SIGNIFICANT ISSUES

AODA noted the words "extreme" and "grave" are not defined in the proposed legislation. Also, the new definition of child abuse is applicable to children under the age of eight; however, other definitions of child abuse include all children under the age of 18. By limiting the age of protection, a child who is killed on the child's 8th birthday would not result in a prosecution because the child was not "under eight years of age". AODA reported the proposed legislation as written would be very difficult to prove for the reasons stated above.

PDD reported that child abuse cases constitute a significant class of cases litigated in the Court of Appeals and Supreme Court by the Public Defender Department and the Attorney General's Office. This litigation is fueled by the broad, and rather vague, language in the existing child abuse statute. Amendments, such as this one, clarifying the standards to be applied by the courts in this area may help to reduce the volume of litigation.

CYFD noted the proposed legislation expands the criminal definition of child abuse to include placement of a child in a motor vehicle under circumstances that manifest an extreme indifference to human life and that creates grave risk of death to a child. The provisions of the proposed legislation addresses the requirement that young children are appropriately restrained in approved car or booster seats, as well as those circumstances involving transporting a child when driving under the influence.

PERFORMANCE IMPLICATIONS

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

NMCD reported the proposed legislation, based on current levels of staffing, would negatively impact the department's ability to perform prison-related and probation/parole supervision services if there are more than just a few additional convictions.

ADMINISTRATIVE IMPLICATIONS

NMCD stated if the proposed legislation were to substantially increase the inmate population or probation/parole caseloads, it would increase the workloads of current prison and probation/parole staff.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 213 has a relationship with the following: Senate Bill 62 – requires family reporting of child abuse, Senate Bill 76 – requires child abuse problems study, Senate Bill 77 – child abuse incident training for police, and Senate Bill 79 – child abuse public awareness campaign.

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