

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (www.nmlegis.gov). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 02/11/13
 SPONSOR Brandt LAST UPDATED 02/28/13 HB _____
 SHORT TITLE Increase Penalties for Multiple DWIs SB 409/aSPAC
 ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)*

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	\$480.5	\$2,619.1	\$3,563.8	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

*The Public Defender Department was the only agency to estimate the financial impact of this legislation.

Duplicate to HB 32

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 New Mexico Sentencing Commission (NMSC)
 Public Defender Department (PDD)
 New Mexico Corrections Department (NMCD)

SUMMARY

Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment to Senate Bill 409 adds additional language to allow for the use of an alcohol-monitoring ankle bracelet in lieu of incarceration. It also adds definitions of “alcohol-monitoring ankle bracelet” and “drug.”

Synopsis of Original Bill

Senate Bill 409 amends Section 66-8-102 NMSA 1978 to increase the penalties for fourth and higher convictions of DWI, as follows:

<u>Conviction</u>	<u>Current Min</u>	<u>Current Max</u>	<u>Bill Min</u>	<u>Bill Max</u>
4 th offense	6 months	18 months	18 months	36 months
5 th offense	1 year	2 years	2 years	3 years
6 th offense	18 months	30 months	30 months	42 months
7 th offense	2 years	3 years	3 years	4 years
8+ offense	same as a 7 th	currently	10 years	12 years

FISCAL IMPLICATIONS

According to the New Mexico Sentencing Commission (NMSC), as of June 30, 2012, 292 offenders committed to the custody of the New Mexico Corrections Department (NMCD) had a felony DWI conviction as their highest charge. That total includes new admissions for a felony DWI conviction and offenders returned to prison whose original conviction was for a DWI offense.

Although the NMCD has maintained that the legislation will have minimal to no fiscal impact if passed, this legislation may result in annual costs of \$2.6 million per year. This estimate is based on an assumption that 150 individuals will be convicted of offenses covered by this legislation and that the averages stay in a correctional institution will be 180 days, or approximately 6 months. The cost per day assumed is \$96.98. This cost is based on the average cost per inmate per day of the state correctional facilities (\$108.05 in FY11) and private facilities (\$85.47). The additional cost equates to approximately 1 percent of the total budget of the NMCD.

Offenders already in the NMCD's custody will not be impacted by the proposed enhanced sentences proposed in this bill. At some point in the future, enactment of this bill will result in longer prison sentences for felony DWI offenders. Increased length of stay may impact the state prison population.

The NMCD has reported no to minimal fiscal impact associated with the passage of this legislation.

The Public Defender Department (PDD) has estimated that this legislation will likely lead to increased attorney caseloads as well as the possibility that the PDD will have to hire additional attorneys to process the increased cases. The Department estimates the increased caseload could lead to a need for an additional 6.5 attorney FTE and \$450 thousand to fund the positions.

SIGNIFICANT ISSUES

The Administrative Office of the Courts (AOC) has stated that as penalties become more severe, defendants may invoke their right to trial and their right to trial by jury. More trials, particularly jury trials, will require additional judge time, courtroom staff time, courtroom availability and jury fees.

A response was not received from the Administrative Office of the District Attorneys.

OTHER SUBSTANTIVE ISSUES

The NMSC reports that literature on the subject of DWI recognizes the effectiveness of a multi-pronged approach, including media campaigns, sobriety checkpoints, treatment, DWI courts, ignition interlocks and swift, certain sanctions.

The fiscal analysis does not account for societal benefits including the possibility of fewer DWI-related auto accidents which may accompany passage of this legislation.