

<b>LFC Requester:</b>	
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**AGENCY BILL ANALYSIS  
2015 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

**[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)**

*and*

**[DFA@STATE.NM.US](mailto:DFA@STATE.NM.US)**

*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

*Check all that apply:*

<b>Original</b>	<input checked="" type="checkbox"/>	<b>Amendment</b>	<input type="checkbox"/>	<b>Date</b>	<u>1-26-16</u>
<b>Correction</b>	<input type="checkbox"/>	<b>Substitute</b>	<input type="checkbox"/>	<b>Bill No:</b>	<u>HJR14</u>

<b>Sponsor:</b>	<u>Antonio "Moe" Maestas</u>	<b>Agency Code:</b>	<u>264</u>
<b>Short Title:</b>	<u>Transfer of Probation to Judicial Branch, CA</u>	<b>Person Writing</b>	<u>Gail MacQuesten</u>
		<b>Phone:</b>	<u>466-0532</u>
		<b>Emai</b>	<u>gailmacquesten@q.com</u>

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		
0	0	n/a	n/a

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		
0	0	0	n/a	n/a

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	minimal	minimal	minimal	minimal	recurring	general

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

HJR14 proposes to amend Article 6 of the New Mexico Constitution to add a new section to read: “The judicial branch shall administer the adult probation services for the state, as provided by law.”

**FISCAL IMPLICATIONS**

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

HJR14 proposes a constitutional amendment, and the secretary of state’s office will incur expenses in adding the proposed amendment to the ballot at the next general election, or in conducting any special election for the purpose of considering the amendment.

If the amendment is adopted, administration of adult probation services will move from the department of corrections (under the executive branch) to the judicial branch. How that move is accomplished will depend on statutes enacted after passage of the amendment. Presumably, costs will increase for the judicial branch, and decrease for the department of corrections, but the details will depend on how the statutes structure the move.

There should be minimal fiscal impact on the district attorneys.

**SIGNIFICANT ISSUES**

Probation occurs prior to and often instead of jail or prison time. Parole is an early release from prison. Both probationers and parolees are generally subject to restrictions, and violations of the terms of probation or parole can result in incarceration. Currently, New Mexico’s department of corrections administers both probation and parole. HJR14 proposes a constitutional amendment that would require the judicial branch to administer adult probation services.

Because probation occurs prior to and often instead of incarceration, and because probationers answer to the court and have not yet been placed in the custody of the department of corrections,

there is some logic to having the judicial branch administer adult probation services. (In contrast, parole occurs after incarceration, and should be administered by the department of corrections.) HJR14 leaves it to the legislature to adjust the statutory scheme to effect this change, and it is not clear how the legislature would set up the new system. Probation and parole could be kept entirely separate, with employees for adult probation services under the judicial branch, and with all administration handled by the judicial branch. Or, some accommodation could be worked out giving the judicial branch administrative control over probation services, while preventing duplication of employees, offices, etc. The issues will be for: the legislature, which will have to enact the new statutory scheme and amend existing statutes that refer to probation and parole under the department of corrections; the judicial branch, which will need to administer adult probation services in the manner set out by the new legislation; and the department of corrections, which will relinquish administration of adult probation under whatever structure is set out in the new legislation.

There should not be significant issues for the district attorneys.

### **PERFORMANCE IMPLICATIONS**

See Significant Issues, above.

### **ADMINISTRATIVE IMPLICATIONS**

See Significant Issues, above.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

See Significant Issues, above.

### **TECHNICAL ISSUES**

See Significant Issues, above.

### **OTHER SUBSTANTIVE ISSUES**

None noted.

### **ALTERNATIVES**

None noted.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The department of corrections will continue to administer adult probation services.

### **AMENDMENTS**

None proposed.