Review of Draft Legislation

Courts, Corrections, and Justice Committee

**223473**

Creates the **judicial education services division** to be administered by the Administrative Office of the Courts rather than the Institute of Public Law at UNM. It changes the judicial education center to the judicial services division to provide judicial education and training for justices, judges, etc, and adds language indicating that it may provide education for tribal judges.

KB Comments: I don’t have any background on this. It sounds like an administrative matter other than the part about tribal judges. If the tribes view the new language favorably, this could contribute to a professionally staffed system (consistent with the League’s position on administration of justice).

**223474**

Relates to criminal expungement and applies **automatic expungement to records involving only cannabis**

Expungement involves cannabis offenses that are no longer a crime and provides for automatic expungement 2 years after conviction or date of arrest if there was no conviction. It requires destruction of the records and provides for the person seeking expungement to make an application to the Administrative Office of the Courts. There is no application fee.

KB comments: This could be seen as consistent with the LWVNM position in support of “a justice system that ensures fair and humane treatment” under the law..

**223475**

**Exempts security system records from the Inspection of Public Records Act**, applying this exemption to facilities of the state or a political subdivision of the state. The intent is to protect records that could expose vulnerabilities in security systems that could be used to plan or facilitate an attack.

KB Comments: This sounds reasonable but League positions don’t provide clear statements about such exceptions.

**223125**

**Relates to the Crime Reduction Grant Act and eliminates the grant administration agency**

The NM Sentencing Commission will assist in the organization of criminal justice coordinating councils. These councils already include representatives of DA, public defender, jails, behavioral health programs, and law enforcement agencies. Each council will develop a strategic plan and facilitate applications from its members for crime reduction grants. Purposes of grants are expanded to include developing or expanding digitized records, developing or expanding the ability of a council member to share data and access data on the statewide criminal justice data integration platform. Proposes deletion of the annual report to the legislature. New material makes the fund non-reverting and calls for award of grants to members of coordinating councils to spur local innovation.

KB Comments: I don’t have any background on this. It soundsokay but we don’t have a position other than supporting an effective justice system, that is adequately funded and coordinated.

**223126**

Deletes from the motor vehicle code **imprisonment as a default penalty for a traffic misdemeanor**.

KB Comments: This is consistent with humane treatment under the law and alternatives to incarceration.

**223127**

KB Comment: This looks like a duplicate of 223125.

223408

Revises **rules on data collection for the NM Sentencing Commission**. Access to data includes juvenile records, behavioral health information and information from the statewide criminal justice data-sharing network. Records shared with the sentencing commission have the same status with regard to access or release as was the case for the entity having possession of the records previously. Records may be used in reports with the protection of confidential information. The commission is not authorized to inspect or review privileged records such as those under the rules of evidence, attorney-client records.

KB Comment: I assume that the purpose is to provide more complete information to the sentencing commission.

**222862**

Relating to **pre-trial detention** and establishing a presumption that the prosecution has proven by clear and convincing evidence that a defendant is dangerous and that no release conditions will protect the safety of any other person or the community.

The proposal applies to a list of “dangerous felony offenses” which are defined by a list of 16 items with 15 sub-items for item 16. These items range from 1st and 2nd degree murder through 2nd and 3rd degree criminal sexual contact with a minor, robbery, arson, shooting at a dwelling or occupied building, shooting from or at a motor vehicle, etc. The sub-items are offenses where the court judge is granted authority to determine that the offense is dangerous.

KB comments: this is an attempt to roll back the impact of the constitutional amendment on pre-trial detention as implemented in the past few years. Our position supports alternatives to incarceration.

**222998**

**Creating the crime of organized retail crime and imposing penalties**

The crime is defined as a concerted effort with one or more co-conspirators to deprive a retailer of merchandise on two or more occasions or deprive multiple retailers located in the state of merchandise over the span of a year.

It identifies as felonies, organized retail crime when the aggregated value of the merchandise exceeds $500.

KB comments: I don’t see a League position that allows us to support or oppose this one.

**223002**

Joint resolution proposing **constitutional amendments** to allow conditions for denial of bail to be set by the legislature, remove the requirement that bail denial decisions be made only by a court of record, remove the limitations of bail denial to defendants charged with a felony, clarify that bail may be denied if no release conditions will reasonably ensure the appearance of the person and remove certain court procedural directions. Ensuring the appearance of the person is new language.

KB comments: This is similar to 222862. The League supports alternatives to incarceration. I think we could also make an equity argument based on the prosecutors being better funded than the public defenders so that the defendant has a harder time making a case for release than the prosecutor does in making the case for detention.

**Financial Crimes Against Adults who are Older, Vulnerable, or Disabled Act**

Creates the crimes of financial exploitation of an adult who is older, vulnerable or disabled and the unlawful use of power of attorney.

KB Comments: I don’t see a League position that addresses exploitation of adults other than the US human trafficking position.

**223193**

**Financial Exploitation Act**

Defines financial exploitation as the wrongful or unauthorized taking, conversion, withholding, appropriation or use of an eligible adult’s assets or an act or omission taken by a trusted person to intimidation, or undue influence.

KB Comments: I don’t see a League position that addresses exploitation of adults other than the US human trafficking position.

**223248**

Relates to **public pensions** and increases the maximum amount of pension a member is permitted to earn pursuant to the Public Employees Retirement Act.

With respect to crime and corrections, it increases the maximum amount for state police, correction officers, probation and parole officers, juvenile correction officers, municipal police, fire and detention officers to 100% (from 90%) of the final average salary.

KB Comments: Our administration of justice position indicates all ”components must be adequately funded and coordinated to carry out the goals of fair and humane treatment under the law… The League believes that the law enforcement, judicial, and corrections systems must be adequately funded and professionally staffed in order to carry out their goals.” So, we could probably support this.