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FISCAL IMPACT REPORT

ORIGINAL DATE 02/24/09
 LAST UPDATED 3/6/09 HB 28/HJCS

SPONSOR HJC

SHORT TITLE Intimidation of Criminal Justice Officials SB _____

ANALYST C. Sanchez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 28

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Bernalillo County Metropolitan Court (BCMC)
 Administrative Office of the District Attorney (AODA)
 Department of Corrections (DOC)

SUMMARY

Synopsis of HJC substitute

The House Judiciary Substitute for House Bill 28 would enact a new section of the Criminal Code prohibiting the intimidation or threatening of a judge. The Substitute narrows the definition of “justice official” in the original bill and defines a justice official as a justice, judge, magistrate judge, domestic violence special commissioner or judicial hearing officer.

The bill would also criminalize retaliation, i.e. causing bodily injury to or damage to the property of a justice official or threatening to do so, with the intent to retaliate against a criminal justice official for a judicial ruling, prosecution, investigation, testimony, report or sentence. The Substitute eliminates the crime of threatening to retaliate from the original bill and requires that actions constituting retaliation must be knowing and intentional.

The penalty for intimidation of a justice official is a third degree felony; retaliation is a second-degree felony.

The Substitute also adds a section providing that conduct constituting retaliation or intimidation may also be prosecuted under other applicable provisions of the law.

FISCAL IMPLICATIONS

According to the AOC, 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 resultant district court actions. 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.

In addition, it would be likely that certain of these cases would create a conflict within the prosecutor's office and would require asking another District Attorney to prosecute the matter. This could increase certain costs for both the giving and receiving office, considering travel expenses, time away from the home office and possible expenses for witnesses.

SIGNIFICANT ISSUES

Just in the past two years, judges have been threatened and assaulted. A man with home addresses for a judge and a justice was caught with weapons, ammunition, a passport and cash after he threatened both the judge and the justice. A judge was attacked in a parking lot as she walked to her car. In several cases, bomb and other threats to judges have required the closing of courts or courtrooms. A felony consequence for these threats and disruption of judicial business is more appropriate than the existing misdemeanor.

PERFORMANCE IMPLICATIONS

The courts are participating in performance based budgeting. This bill may have an impact on the measures of the district courts in the following areas: cases disposed of as a percentage of cases filed; and percentage change in case filings by type.

RELATIONSHIP

HB 28 is closely related to SB 126. The definition of "judicial official" in the House Judiciary Substitute for HB 28 is similar to the definition of judge in SB 126. The Senate Bill however, includes a judge's staff and family members with in the definition of intimidation.

SB 126 and HB 28 are also distinguished by the applicable penalties. SB 126 makes both intimidation of a judge and retaliation against a judge a fourth degree felony. In contrast, HB 28 makes intimidation of a criminal justice official a third degree felony, and retaliation is a second degree felony.

ALTERNATIVES

The administrative office of the courts continues to suggest adding back the phrase "or threatening to do so" on page 1, line 25, between the words "person" and "with."

TECHNICAL ISSUES

The definition of family member includes “child” but not “step-child.”

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

CS/mt:mc