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FISCAL IMPACT REPORT

SPONSOR Leavell **ORIGINAL DATE** 02/01/09 **LAST UPDATED** 03/08/09 **HB** _____

SHORT TITLE False Insurance Info as Racketeering **SB** 118/aSJC

ANALYST Wilson

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
Indeterminate Minimal	Indeterminate Minimal	Indeterminate Minimal	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	Indeterminate Minimal	Indeterminate Minimal	Indeterminate Minimal	Indeterminate Minimal	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)
 Corrections Department (CD)
 Public Defender Department (PDD)
 Public Regulation Commission (PRC)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to SB 118 adds that for the purposes of false application, claim or proof of loss as provided in Section 59A-16-23 NMSA 1978 and added by the original SB118, a "pattern of racketeering activity" means engaging in at least ten incidents of racketeering with the intent of accomplishing any of the prohibited activities pursuant to Section 30-42-4 NMSA 1978.

The amendment does not change existing law defining “racketeering activity” to mean engaging in at least two incidents of racketeering with the intent of accomplishing any of the prohibited activities set forth in Subsections A through D of Section 30-42-4 NMSA 1978.

Synopsis of Original Bill

Senate Bill 118 expands the crime of racketeering to include false application, claim or proof of loss with respect to insurance.

FISCAL IMPLICATIONS

Since its inception in 1999, the PRC’s Insurance Fraud Bureau has convicted 12 -20 individuals of various white-collar crimes, per year. In New Mexico, the correctional system is overburdened with violent and drug offenders and consequently only a handful of these defendants have received actual incarceration time. Therefore, it is expected that this bill will have a minimal budgetary impact.

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. 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.

CD provided the following:

- The additional felony convictions resulting from this bill will increase the CD’s costs by leading to minimal and perhaps moderate increases to the inmate population and probation/parole caseloads.
- The bill seems unlikely to lead to a substantial number of new convictions, or to result in a substantial increase in the CD inmate population or probation/parole caseloads. However, it is always difficult to accurately predict or estimate the ultimate effect of any bill expanding a crime.
- As is almost always the case, there is no appropriation in the bill to the CD to cover any of the CD’s increased costs associated with the expansion of this crime of racketeering.

There may be some minimal increases in the CD’s revenue caused by a minimal amount of revenue generated by the probation or parolee supervision fees paid by offenders convicted of the expanded crime of racketeering. However, these minimal increases would be more than offset by the imprisonment of one or more persons convicted of the expanded crime of racketeering.

SIGNIFICANT ISSUES

The existing Racketeering Act will have an additional punishment added to a wide array of economic and non –economic crimes by criminalizing the act of entering into an agreement with a person or entity to commit two or more incidents of that crime. This proposed amendment to the current racketeering Act will add the crime of "false application, claim or proof of loss" to a long list of crimes.

Expanding the list of felonies defined as racketeering expands the number of individuals who will or can be convicted of these separate felonies for racketeering. A conviction for racketeering is separate from the convictions for the underlying felony offenses.

ADMINISTRATIVE IMPLICATIONS

The affected agencies should be able to handle the enforcement of the provisions in this bill as part of ongoing responsibilities

DW/mc