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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/23/09

SPONSOR Wirth LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Prohibit Intimidation of a Judge SB 126

ANALYST C. Sanchez

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to,  
HB 28

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
 Administrative Office of the District Attorney (AODA)  
 Bernalillo County Metropolitan Court (BCMC)  
 Public Defender (PD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 126 would enact a new section of the Criminal Code prohibiting the intimidation or threatening of a judge or a staff or family member of a judge who is or may become involved in a judicial, administrative, legislative or other official cause or proceeding for the purpose of preventing or influencing a ruling, finding, prosecution, investigation, testimony, report or sentence. The proposed bill would also criminalize retaliation, i.e. causing bodily injury to or damage to the property of a judge or a staff or family member of a judge or threatening to do so, with the intent to retaliate against the judge for a ruling, finding, prosecution, investigation, testimony, report or sentence.

SB 126 makes both intimidation of a judge and retaliation against a judge a fourth degree felony.

## **FISCAL IMPLICATIONS**

There could 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.

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

SB 126 is closely related to HB 28, "Intimidation of Criminal Justice Officials". Under SB 126, protected individuals include judges, justices, magistrates, special commissioners, and hearing officers, and their staff and family. HB 28 describes a broader scope of protected parties, including district attorneys, deputy district attorneys, assistant district attorneys, senior trial prosecutors, chief public defenders, district public defenders, assistant public defenders, the attorney general, deputy attorney general, assistant attorneys general, law enforcement officers or probation and parole officers, or an attorney if the intimidation or retaliation arose out of that attorney's representation of a defendant in a criminal action.

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.

## **TECHNICAL ISSUES**

"Judge" has been defined as a justice, judge, magistrate, special commissioner, or hearing officer. "Family Member" has been defined as a husband or wife, parent or grandparent, child or grandchild or brother or sister by consanguinity or affinity. The definition does not include those family members by adoption. The proposed bill does not define what is meant by "staff."

The penalty for intimidation of or retaliation against a judge is a fourth degree felony.

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

There are existing laws for the kinds of specific instances of intimidation or retaliation against witnesses but these would not ordinarily apply in the circumstances contemplated by this bill. However, the seriousness of the punishment sought in this bill would reflect a state policy of protecting judges who seek to exercise their responsibilities without fear of intimidation or retaliation.

CS/svb