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FISCAL IMPACT REPORT

ORIGINAL DATE 2/17/09
 LAST UPDATED 2/24/09 HB _____

SPONSOR Adair

SHORT TITLE Judicial Standards Commission Referrals SB 591

ANALYST Wilson

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

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

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

Senate Bill 591 enacts a new section of the Victims of Crime Act stating that a judge's or magistrate's failure to inform a victim of the victim's rights under the constitution of New Mexico and as required by the Victims of Crime Act shall be grounds for submission of a complaint to the Judicial Standards Commission (JSC).

FISCAL IMPLICATIONS

Judicial educational resources will be devoted to ensuring judges' responsibilities regarding victim's rights are understood.

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

SIGNIFICANT ISSUES

The AOC provided the following:

Currently, a person may file a complaint against a judge with the judicial standards

commission for any reason; there are no specific grounds within which a complaint must fall. Therefore, SB 591 does not further open the types of complaints that may be filed with JSC. Furthermore, article 2, section 24 of the constitution does not require the court to take any affirmative action.

The Victim's Crime Act requires the court to take action in three instances:

31-26-4(L): A victim shall have the right to be informed *by the court* at a sentencing proceeding that the offender is eligible to earn meritorious deductions from the offender's sentence and the amount of meritorious deductions that may be earned by the offender.

31-26-10: A *court shall provide* a district attorney's office with oral or written notice no later than seven working days prior to a scheduled court proceeding attendant to a criminal offense, unless a shorter notice period is reasonable under the circumstances.

31-26-10.1: At any scheduled court proceeding, *the court shall inquire* on the record whether a victim is present for the purpose of making an oral statement or submitting a written statement respecting the victim's rights enumerated in Section 31-26-4 NMSA 1978. If the victim is not present, the court shall inquire on the record whether an attempt has been made to notify the victim of the proceeding. If the district attorney cannot verify that an attempt has been made, *the court shall*:

- (1) reschedule the hearing; or
- (2) continue with the hearing but reserve ruling until the victim has been notified and given an opportunity to make a statement; and
- (3) order the district attorney to notify the victim of the rescheduled hearing.

Since these are the only court requirements stated in the Victim's Crime Act, this bill would be strengthened by stating that failure to inform victims of their rights constitutes judicial misconduct.

ADMINISTRATIVE IMPLICATIONS

The Judicial Standards Commission should be able to handle the enforcement of the provisions in this bill as part of ongoing responsibilities.

DW/mc