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FISCAL IMPACT REPORT

SPONSOR: Beam DATE TYPED: 02/10/03 HB 138/aHGUAC

SHORT TITLE: Prohibit Firearms in Courthouse SB _____

ANALYST: Fox-Young

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
		\$0.1 Minimal	Recurring	Intensive Supervi- sion Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Responses Received From

Attorney General (AG)

Corrections Department (CD)

No Response

Administrative Office of the District Attorneys (AODA)

Public Defender Department (PDD)

SUMMARY

Synopsis of HGUAC Amendment

The House Government and Urban Affairs Committee makes technical adjustments to House Bill 138.

The amendment eliminates the requirement that a firearm be made completely inoperative prior to being used as evidence in a court proceeding. A firearm may be used as evidence if “[it] is unloaded and remains in sealed evidence containers until presented as evidence at trial.”

The HGUAC makes an unnecessary technical change, inserting “the” on page 2, line 6, after “(b)”.

Synopsis of Original Bill

House Bill 138 creates a new fourth degree felony offense, making it unlawful to possess a loaded or unloaded firearm in any courthouse or court facility. Exceptions are made for law enforcement and court security officers, and firearms may also be used as evidence in court proceedings.

A firearm used for evidentiary purposes must remain completely inoperative while inside court facilities, and the person using the firearm as evidence must first give notice to the court administrator or chief clerk of the court that such firearm will be presented as evidence.

Significant Issues

The Attorney General (AG) notes the requirement that the firearm be made completely inoperative before it is carried into a courthouse might lead to potential chain of custody issues, because most evidence is contained in a sealed bag or container when first presented at a trial. In order to satisfy the bill, a firearm must be made inoperative before being tagged and placed inside a sealed container so that, on the day of trial, the sealed container would not have to be breached outside of the courtroom in order to make the firearm completely inoperative.

Additionally, the AG notes that any party wishing to demonstrate the operation of a firearm in a trial setting would be prevented from doing so under the requirements of the bill.

The AG also notes that the phrase “completely inoperative” implies that simply ensuring that the firearm is unloaded will not be sufficient to accomplish the purpose of the bill. Physical alterations of evidentiary firearms may be necessary in order to satisfy this requirement.

The AG suggests that rather than requiring firearms used as evidence be made “completely inoperative,” the language require that such firearms be unloaded and remain in sealed evidence containers until presented as evidence at trial.

FISCAL IMPLICATIONS

There may be a minimal cost to judicial and correctional agencies as a result of increased litigation.

The Corrections Department (CD) reports that the bill could spur a slight increase in probation and parole caseloads and in the prison population. CD also forecasts a minimal increase in revenues to the intensive supervision fund as a result of increases in probation and parole caseloads.

JCF/yr