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FISCAL IMPACT REPORT

SPONSOR: Carraro DATE TYPED: 03/07/03 HB _____

SHORT TITLE: Aggravated Fleeing A Law Enforcement Officer SB 531

ANALYST: Fox-Young

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			\$0.1 Significant	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with HB 30, HB 87

SOURCES OF INFORMATION

Responses Received From

- Attorney General (AG)
- Administrative Office of the District Attorneys (AODA)
- Corrections Department (CD)
- Department of Public Safety (DPS)
- LFC Files

SUMMARY

Synopsis of Bill

Senate Bill 531 creates the crime of “aggravated fleeing a law enforcement officer,” making it a fourth degree felony.

“Aggravated fleeing a law enforcement officer consists of a person driving while under the influence of intoxicating liquor or drugs, as provided in Section 66-8-102 NMSA 1978, and willfully refusing to stop his motor vehicle after being given a visual or audible signal to stop, whether by hand, voice, emergency light, flashing light, siren or other signal, by a uniformed law enforcement officer in pursuit of the person in an appropriately marked law enforcement vehicle.”

Significant Issues

The Attorney General (AG) reports that under current law, the only penalty for an individual who flees a law enforcement officer while not in custody is contained in Section 30-22-1 NMSA 1978. (Resisting evading or obstructing an officer) This section of current law provides that willfully refusing to bring a vehicle to a stop when signaled by a law enforcement officer is a misdemeanor. The bill makes it a felony to do so in the context of a DWI stop.

Additionally, AG reports that the bill complements Section 30-22-10 NMSA 1978 (Escape from custody of a peace officer). Section 30-22-10 makes it a felony for anyone to escape or attempt to escape from the custody of a peace officer after being placed under arrest for a felony. An individual need not be in custody or have committed a felony before being subject to the penalty scheme contained in the bill.

AG notes that most DWI cases are handled by magistrate or metropolitan courts, as they have jurisdiction over misdemeanor cases, while cases involving felony offenses are heard in district courts. In those cases in which district attorneys charge misdemeanors and felonies in the same complaint or indictment, charges are separated between magistrate and district courts. Because many aggravated fleeing charges will likely be accompanied by DWI charges, many cases will be tried in both courts.

The Administrative Office of the District Attorneys (AODA) indicates that the provisions of the bill will have a significant impact on the way prosecutors try DWI cases. Because the newly created offense is a felony, cases in which aggravated fleeing and DWI are charged will likely be filed and tried in district courts. AODA notes that this practice will assure that the two charges are kept together and prosecuted as a single case.

As an alternative to the provisions of the bill, AODA recommends forgoing the enactment of a new felony, and instead amending current law to provide mandatory jail time for all fleeing offenders or for fleeing offenders who are also DWI.

FISCAL IMPLICATIONS

AODA indicates that the provisions of the bill will necessitate additional felony attorneys to prosecute and defend cases. Additionally, AODA notes that courts will see an increase in workload and that more district court judges may be necessary.

Felony cases require more resources of courts, the Public Defender Department (PDD) and district attorneys.

The Corrections Department (CD) estimates that the bill will likely prompt a small annual increase in the number of prison commitments each year and a corresponding yearly increase in probation and parole costs.

CONFLICT

Conflicts with HB 30 and HB 87. In each of these bills,

“aggravated fleeing a law enforcement officer consists of a person willfully and

carelessly driving his vehicle in a manner that endangers the life of another person after being given a visual or audible signal to stop, whether by hand, voice, emergency light, flashing light, siren or other signal, by a uniformed law enforcement officer in an appropriately marked law enforcement vehicle in pursuit in accordance with the provisions of the Law Enforcement Safe Pursuit Act.”

JCF/njw