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FISCAL IMPACT REPORT

SPONSOR: Jennings DATE TYPED: 03/17/03 HB

SHORT TITLE: Criminal Trespass Posting And Notices SB 737/aSJC

ANALYST: Fox-Young

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			See Narrative		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Responses Received From
 Administrative Office of the Courts (AOC)
 Corrections Department (CD)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amends the bill, providing that

“Notice means...placed at locations that are readily visible to any person approaching the property and no more than: 1) five hundred feet apart on forest land; and 2) one thousand feet apart **or line of sight** on land other than forest land.” (the amendment is bolded)

TECHNICAL ISSUES

The amended language appears to be grammatically incorrect. Perhaps “or line of sight” could be replaced with “or within line of sight of one another” or similar language imparting the same idea.

Synopsis of Original Bill

Senate Bill 737 amends Section 30-14-1 NMSA, providing that one commits criminal trespass

by entering or remaining upon **fenced or** posted private property without possessing written permission from the owner or person in control of the land.

Under the current statute, notice of no consent to enter shall be deemed sufficient notice to the public and evidence to the courts, by the posting of the property at all vehicular access entry ways.

The bill specifies that notice of no consent to enter **unposted private property** is sufficient when it consists of the written communication by the owner, lessee, person in lawful possession or his agent or by the existence of fencing or other enclosure obviously designed to exclude intruders or to contain livestock.

The bill amends Section 30-14-1.1, providing that a person who enters upon the lands of another when such lands are posted against trespass is guilty of a misdemeanor. The current statutory language requires posting at every roadway or apparent way of access.

The Act amends Section 30-14-6 NMSA, providing that sufficient notice that entry is forbidden without permission consists of:

- Written communication by the owner, lessee, or other designated individuals;
- Fencing or other enclosure obviously designed to exclude intruders or to contain livestock;
- A sign or signs posted on the property or at the entrance to the building, reasonably likely to come to one's attention, indicating entry is forbidden;
- The placement of orange paint marks on trees or posts on the property, provided that, among other requirements, the marks are placed at locations that are readily visible to any person approaching the property and not more than 500 feet apart on forest land, and 1,000 feet apart on land other than forest land.

Significant Issues

The bill broadens the definition of sufficient notice that entry is forbidden, eliminating the present notice requirements and establishing new ones. The current statute places a significant burden on landholders, as it requires that signs be posted at every roadway or apparent way of access indicating the existence of private property. The bill eliminates this requirement.

AOC indicates the provisions of the bill are likely to affect children more than adults.

FISCAL IMPLICATIONS

AOC notes that the bill will likely prompt an increase in cases involving criminal trespass, meaning that costs will likely increase for courts, PDD and district attorneys.

This bill will slightly increase Department costs due to more people on probation for this crime. There is no appropriation to cover these increased costs, and the probation fees generated from these convictions will probably not offset the increased costs. However, the Department can probably absorb these increased costs.

TECHNICAL ISSUES

AOC notes that the bill does not detail the type and condition of fencing sufficient to provide notice of potential trespass upon entry.

AOC recommends amending the language contained in Section 1(B) relating to written communication to refer to the "...written communication **of** the owner..."

JCF/njw