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FISCAL IMPACT REPORT

SPONSOR Stapleton DATE TYPED 3/7/05 HB 692/aHCPAC/aHJC
 SHORT TITLE Crime Victim Statements at Court Proceedings SB _____
 ANALYST Medina

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

Relates to the Victims of Crime Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Public Defender Department

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment requires that if the district attorney cannot verify, rather than certify that an attempt to notify the victim of a court proceeding, then the court re-schedule the hearing or reserve ruling pending the victim's opportunity to make a statement. The amendment also adds a new subsection to clarify that the provisions of section one of the bill shall not require the court to continue or reschedule any proceedings if it would result in a violation of jurisdictional rule.

Synopsis of HCPAC Amendment

The House Consumer and Public Affairs Committee amendment specifies that the bill's provision regarding the court's inquiry on record that an attempt was made to notify a victim of a proceeding respects the victim's rights enumerated in Section 31-26-4 NMSA 1978 ("Victim's rights").

Synopsis of Original Bill

House Bill 692 proposes to amend the Victims of Crime Act to include a section that would require the courts at any scheduled court proceeding, to inquire on the record whether a victim is present to make an oral statement or submit a written statement to the court and if the victim is not present, the court is to inquire to the district attorney as to whether or not the victim has been notified of the proceeding.

The bill requires that the district attorney certify orally or in writing that an attempt has been made to contact the victim to notify the victim of the proceeding and amends the section of statute relating to the procedures for the district attorneys' victim notification, removing the provision that the district attorneys provide notification "if requested by the victim".

The bill provides that any court proceeding be rescheduled or else continued with judgment reserved until the victim has been notified and given an opportunity to make a statement. The bill requires that the court order the district attorney to notify the victim of the rescheduled hearing.

Finally, the bill provides that unless good cause is shown, the court is not to accept plea agreements unless the district attorney has informed the victim of the contents of the proposed plea agreement and has obtained the victim's views about the disposition of the case.

Significant Issues

This bill requires that victim notification be provided for any scheduled court proceeding. Mandatory court inquiry of victim notification at each scheduled court proceeding would likely take up a significant amount of time. There are a number of proceedings that take place for any given criminal case including, arraignment, pre-trial hearings, numerous status hearings, docket calls, motion hearings, trials, and final disposition hearings. There is potentially little or no value added, regardless of the nature of the criminal case, if victims are afforded an opportunity to speak or submit written statements at some less critical proceedings. Arraignments, pre-trial hearings in which pleas might be discussed and sentencing proceedings and other critical hearings would be the exceptions.

ADMINISTRATIVE IMPLICATIONS

Current law requires that the district attorneys provide the victim of a criminal offense with oral or written notification of a scheduled court proceeding concerning the criminal offense if requested to do so by the victim. According to AOC, there is an administrative impact on the court resulting from added judicial time needed to make inquiry at any scheduled court proceeding. AOC further states that there may be an increase in the amount of work that needs to be done by the courts, thus requiring additional resources needed to handle the increase.

TECHNICAL ISSUES

It is unclear as to whether this legislation would apply only to existing enumerated crimes under the Victims of Crime Act. This bill is also unclear as to the form in which the district attorneys would be required to certify that an attempt has been made to notify a victim.

OTHER SUBSTANTIVE ISSUES

Case delays that result from scheduling hearings to accommodate victims' right to make oral or submit written statements may ultimately conflict with the six-month rule, potentially jeopardizing criminal cases.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

The district attorneys would continue to fulfill their obligations of victim notification without the requirement that they notify victims of every court proceeding.

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