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FISCAL IMPACT REPORT

SPONSOR Wirth DATE TYPED 2/19/05 HB 255/aHJC

SHORT TITLE Crime of Simulating Legal Process SB _____

ANALYST Wilson

APPROPRIATION

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

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Defender Department (PDD)
 Bernalillo County Metro Court (BCMC)
 Attorney General's Office (AGO)
 Corrections Department (CD)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment to HB 255 shortens the definition of a civil or criminal process to mean a document or order, including but not limited to a summons, lien, complaint, warrant, injunction, writ, notice, pleading or subpoena. There is less explanatory language.

Synopsis of Original Bill

House Bill 255 creates a new misdemeanor crime of issuing or delivering a false legal document. It would include documents normally issued by a court or filed in a court, like summons, liens, complaints, warrants, writs, injunctions, notices, pleading, or subpoena.

Significant Issues

The AGO believes this bill is proposed to address the abuse of legal process by individuals and groups who disavow the legitimacy of the courts and seek to disrupt or subvert it by the filing

and use of false documents. This law will provide a sanction for such conduct.

The BCMC believes the aim of this legislation is to abate the use of voluminous “look-alike” judicial and legal documents which are often directed at Judges, Court staff and other public officials and employees with the apparent goals of: frustrating actual judicial proceedings (e.g., traffic cases); or, harassing such public officials and employees who are merely performing their duties.

Such documents can intimidate these officials and employees into believing that they, or their property, are being targeted via some incompletely disclosed legal process or proceeding. The task of reviewing such simulated documents and confirming that they are not generated in the course of genuine judicial or legal process is burdensome and very time-consuming since such documents are typically quite lengthy and are written in an archaic style that contains incomprehensible language.

Given the increasing proliferation of model documents on the internet it is understandable that at least 10 other states have criminalized simulation of the legal process. The current proposal in the Bill draws largely from the existing statutes of Missouri, Oregon and West Virginia.

FISCAL IMPLICATIONS

The bill could increase costs to the CD as a result of the new crime. Because this proposed crime is a misdemeanor, the only way a person could go to prison for this is by stacking it with other charges. For this reason, the greatest impact will be on the Probation Division. The number of convictions is likely to be minimal.

ADMINISTRATIVE IMPLICATIONS

Any increase caused by the provisions in this bill can be absorbed by existing staff resources.

DW/lg:yr