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FISCAL IMPACT REPORT

ORIGINAL DATE 02/23/07
 LAST UPDATED 02/28/07

SPONSOR Rehm HB 1083/aHHGAC

SHORT TITLE Crime of Unlawful Motor Vehicle Taking SB _____

ANALYST Hanika Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$.1 see narrative			Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Bernalillo County Metro Court
 Department of Public Safety (DPS)
 Public Defender Department (PDD)

SUMMARY

Synopsis of HHGAC Amendment

The House Health and Government Affairs Committee Amendment adds the crime of receiving or transferring stolen vehicles or motor vehicles to the definition of “racketeering” as used in the Racketeering Act, Section 30-42-3 NMSA 1978; and, as provided in Section 30-16D-6 NMSA 1978.

Synopsis of Original Bill

House Bill 1083 amends Sections 66-3-501, 30-16D-1 through 30-16D-9, and 30-42-3 NMSA 1978 to create new crimes for embezzling, converting or fraudulently obtaining a motor vehicle; receiving or transferring a stolen vehicle; and, for injuring or tampering with a motor vehicle. The penalty for the taking of a motor vehicle with a value not more than \$2500 will remain a fourth degree felony; the taking of a motor vehicle with a value of more than \$2500 but less than \$20,000 a third degree felony; and, the taking of a vehicle valued at more than \$20,000 will be a second degree felony.

House Bill 1083 will also eliminate the provisions governing the exclusive jurisdiction of such crimes in the district court to allow the new misdemeanor to be tried in the Metropolitan Court and Magistrate Courts.

House Bill 1083 will also amend NMSA 1978, § 30-42-3 to include within the definition of “racketeering” the following crimes: unlawful taking of a motor vehicle; embezzlement of a motor vehicle; fraudulently obtaining a motor vehicle; and, altering or changing the serial number, engine number, decals or other numbers or marks of a vehicle.

FISCAL IMPLICATIONS

The creation of a new misdemeanor for injuring or tampering with a motor vehicle will create an undetermined number of additional criminal cases for the Courts. More trials and more jury trials will require additional judge time, courtroom staff time, and courtroom availability and jury fees.

Legislation resulting in increased sentences always creates the possibility that more criminal defendants will proceed to trial instead of accepting a plea offer. This will result in an increased caseload and additional court time for Public Defender Department attorneys. This is particularly significant due to the change in penalty from misdemeanor to felony, with all a felony sentence’s collateral consequences, including the possibility of habitual enhancement and parole time.

CD reports the financial impact will be minimal to slight based upon the anticipated low number of convictions for these new offenses. This may be offset some by a minimal amount of revenue generated by the probation/parolee supervision fees paid during the probation/parole period.

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

The PDD notes there may be some state constitutional difficulties with the bill’s deletion of the provision that the district court has exclusive jurisdiction over the offenses proscribed in this section of the statute. Since the crimes enumerated are felony offenses, jurisdiction is properly in the district court. *See* N.M. Const. Art. 6, § 13 (the district court shall have original jurisdiction in all matters and causes not excepted in this constitution).

TECHNICAL ISSUES

Sections 3, 4, 5 and 6: prescribed penalties cover vehicles with a value of \$2,500 or less, vehicles with a value of more than \$2,500 but less than \$20,000, and vehicles with a value of more than \$20,000. Vehicles with a value of \$20,000 are not covered.

SUBSTANTIVE ISSUES

(30-16D-8) DPS reports that the bill clarifies the crime of altering motor vehicle serial numbers. Vehicle manufacturers have begun to put serial numbers on many parts of a motor vehicle, this bill makes tampering with any of those components a crime.

(30-16D-1) DPS further reports that requiring law enforcement agencies to notify the State Police “or other appropriate law enforcement agency” in cases of auto theft is to ensure the vehicle gets “entered “ into the NCIC data base, entering the vehicle directly satisfies that requirement.

AHO/nt