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FISCAL IMPACT REPORT

ORIGINAL DATE 2/19/07
 SPONSOR SPAC LAST UPDATED 2/28/07 HB _____
 SHORT TITLE Child Solicitation by Electronic Devices SB 735/SPACS
 ANALYST C. Sanchez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 520 and 578, and SB 439, 450, 468 and 528
 Duplicates HB 663

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Public Defenders Department (PDD)
 Corrections Department (CD)
 Public Education Department (PED)

SUMMARY

Synopsis of Bill

The Senate Public Affairs Committee substitute for SB 735 amends Section 30-37-3.2 NMSA. Child solicitation by an electronic communication device is defined as knowingly and intentionally soliciting a child under sixteen years of age by means of an electronic communication device to engage in sexual intercourse, sexual contact or in a sexual or obscene performance, or to engage in other sexual contact with the perpetrator who is at least four years older than the child. In the current statute the age difference need only be three years.

An electronic communication device is defined as a computer, video recorder, digital camera, fax machine, telephone, cellular telephone, pager, audio equipment, or any device that can produce an electronically generated image message or signal.

The criminal degree varies based on the age of the victim and the actions of the perpetrator.

- Fourth degree felony, if the child is between 13 and 16 years old.
- Third degree felony, if the child is less than 13 years old.
- Third degree felony, if the child is between 13 and 16 years old and the person who commits the solicitation also appears, attends, or is present at a meeting with the person arranged through the solicitation
- Second degree felony if the child is less than 13 years old and the person who commits the solicitation also appears, attends, or is present at a meeting with the person arranged through the solicitation

The committee substitute adds this offense to those offenses included in:

- Sex Offender Registration and Notification Act, § 29-11A-3 and §29-11A-5 NMSA 1978 and
- Terms and conditions for parole for sex offenders, §31-21-10.1 NMSA 1978

The effective date of the Act is July 1, 2007.

SIGNIFICANT ISSUES

The Act is recognizing and responding to technological advancements in electronic communication devices.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

This bill could impact the Corrections Department's programs if there were more than just a few additional convictions.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to HB 520 and 578, and SB 439, 450, 468 and 528.

Duplicates HB 663

OTHER SUBSTANTIVE ISSUES

According to the Administrative Office of the Courts, it is not clear in section 30-37-3.2 B. what the legislation is attempting to make a 2nd degree felony. The question is does this definition only apply to a "meeting" that actually occurs between the perpetrator and a child? The term "meeting" could be construed as the section only applying when the perpetrator and child actually meet and no other situation. This could prove problematic when a child is in the same location as the perpetrator but there has not been a "meeting" or the officer posing as a child is not at the "meeting".

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The offense of child solicitation by computer will not be amended to include all electronic communication devices, and the offense will not be added to the list of offenses enumerated under the Sex Offender Registration and Notification Act.

CS/nt