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FISCAL IMPACT REPORT

ORIGINAL DATE 01/27/13
 LAST UPDATED 02/12/13 HB _____

SPONSOR Martinez, R.C.

SHORT TITLE Penalties for Certain Motor Offenses SB 36/aSJC

ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	NFI	Recurring	

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 35 and SB 131

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Attorney General’s Office (AGO)
 Public Defender Department (PDD)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to Senate Bill 36 removes a traffic code violation of a “television within view of driver” and the corresponding fee as well as maintains language requiring the court to report to the MVD whether the defendant in a traffic case was represented by counsel or waived the right to counsel.

Synopsis of Original Bill

Senate Bill 36 (SB 36) amends Section 66-8-116 NMSA 1978, Penalty Assessment Misdemeanors -- Definition -- Schedule of Assessments, by making certain offenses which are currently traffic misdemeanors with the possibility of jail time into penalty assessment misdemeanors which carry no jail time.

The SB 36 amends Section 66-8-135 NMSA 1978 by adding a provision requiring the court to notify the Department of Motor Vehicles if a defendant fails to appear on a charge relating to motor vehicles and adds that failure to comply with subsection (F) shall be judicial misconduct if it is willful.

FISCAL IMPLICATIONS

None of the responding agencies indicated a cost associated with the passage of this bill though there may be small savings to county detention facilities. The New Mexico Sentencing Commission's length of stay study published in August, 2012 indicated that on June 30, 2010, there were 83 persons held in county jail facilities with a highest charge of a traffic violation, not including DWI offenses. This represented 2.6 percent of the total number of jail inmates incarcerated that day.

SIGNIFICANT ISSUES

According to the AOC:

Making offenses listed as additions to Section 66-8-116 NMSA 1978 penalty assessments instead of traffic misdemeanors removes the possibility that a defendant cited for such an offense shall be subject to potential incarceration. Such a change still protects the public safety and welfare while simplifying the enforcement of these provisions of the Motor Vehicle Code.

The proposed changes to Section 66-8-135 NMSA 1978 clarify what information courts are required to send to the Motor Vehicle Department at which point in the case. The Department has told the courts it makes no use of the information proposed to be eliminated from the abstract. This information will still be maintained in the records of the courts; it simply will not be sent to the Department. Finally, it is fair to clarify that failure to send the abstract must be willful in order to be judicial misconduct.

RELATIONSHIP

SB 36 is related to SB 35 and SB 131.

TECHNICAL ISSUES

The AGO notes that due to the consequential nature of the proposed reporting requirement, SB 36's language should include a timeframe within which notification shall be made.

NCJ/svb:bm