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FISCAL IMPACT REPORT

ORIGINAL DATE 1/26/2015

SPONSOR Gallegos LAST UPDATED _____ HB 104

SHORT TITLE Unattended Children in Vehicle Penalties SB _____

ANALYST Chenier

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Fiscal Implications	See Fiscal Implications	See Fiscal Implications	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Public Defender Department (PDD)

Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

House Bill 104 would amend the motor vehicle code by adding a new penalty misdemeanor assessment of \$100 for leaving a child under the age of ten years old unattended in a motor vehicle for more than five minutes.

FISCAL IMPLICATIONS

DPS stated that “there are no discernible fiscal implications to the Department of Public Safety from passage of the proposed legislation”.

SIGNIFICANT ISSUES

AOC provided the following:

One issue with this bill centers on the ages referenced in the legislation. Approximately 19 other states have a similar statute prohibiting leaving children unattended in a vehicle but the ages vary greatly. Leaving any child unattended in a vehicle, especially during the hot summer months, could result in lethal consequences. The older a child, the more

likely they are to be able to exit a hot vehicle. For comparison, New Mexico does not have a state statute defining a minimum age for a child to be left home alone.

The other age referenced in this bill states that the child left unattended in the motor vehicle is “not attended by an individual in the vehicle who is fourteen years of age or older.” In theory, a 12 or 13 year old could be in a vehicle with his/her own infant for more than five minutes and this could result in a violation under this proposed language.

Also, this bill establishes that leaving a child in a vehicle unattended is a crime regardless of whether or to what extent actual endangerment results. A nine-year-old child left in a vehicle in a garage for six minutes may be less endangered than a newborn left at the curb on a busy avenue for one minute. However, this bill certainly makes it clear that leaving children in a vehicle is fraught with risk, and establishes clear guidance for parents and prosecutors.

DPS provided the following:

The bill does not address the criminal act of leaving a child unattended in a motor vehicle when it results in injury requiring hospitalization or the death of a child. It could be argued that any act of leaving a child unattended is simply a Penalty Assessment. Additionally the bill does not provide for the power to make an arrest under this offense. This may hinder a peace officer’s ability to arrest offenders when the danger to the child is severe.

PDD provided the following:

The Red Cross offers babysitting classes in New Mexico for children as young as eleven years old. This makes the ages listed in this provision seem somewhat unreasonable and may create hardships for parents who look forward to assistance from older siblings as young as eleven. A change to allow the person attending the younger children to be as young as eleven would make this bill more attainable to parents and in line with the Red Cross’ idea of training eleven year old children to babysit.

Also, a definition of “unattended” should be included and should specify that the parent must be out of sight and hearing distance. A parent whose child is asleep might step out of the car to talk to a friend a few feet away. This should not constitute “unattended.”

EC/bb