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FISCAL IMPACT REPORT

SPONSOR HJC ORIGINAL DATE 02/28/11
LAST UPDATED _____ HB 26/HJCS
SHORT TITLE Prohibit Intimidation of Judges & Retaliation SB _____
ANALYST Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$38.0	\$57.0	\$96.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with SB 10.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
New Mexico Corrections Department (NMCD)

SUMMARY

Synopsis of Bill

House Judiciary Committee Substitute for House Bill 26 creates two new crimes:

- 1) Intimidating a judge or a family member of a judge with intent to influence the legal process or the outcome of a case and causing the judge or family member to reasonably believe his or her person or property is in danger; and
- 2) Retaliating against a judge or a family member of a judge after a ruling or judicial action by intentionally threatening bodily injury to damage to the property of a judge or a family member of a judge and causing the judge or family member to reasonably believe his or her person or property is in danger.

Both of these crimes are classified as fourth degree felonies.

FISCAL IMPLICATIONS

Because the conduct which is the subject of this bill is already criminalized under other statutes

(with a lesser sentence in county jail upon conviction), no significant impact in the prosecution, defense or judicial costs is foreseen. The numbers in the table above represent NMCD's average cost for incarceration of one offender per year upon conviction (assuming no mitigating or aggravating circumstances, no suspension or deferment, and no meritorious deduction) for the 18 months of prison time imposed should this bill become law.

SIGNIFICANT ISSUES

New Mexico has experienced an increase in threats against judges in recent years. This past year, two judges in Santa Fe received death threats. In 2008, an Albuquerque judge was threatened by a party in a divorce case; the perpetrator was ultimately prosecuted under federal law. Around the nation, judges have been threatened and assaulted. A man with home addresses for a judge and a justice was caught with weapons, ammunition, a passport and cash after he threatened both the judge and the justice. A judge was attacked in a parking lot as she walked to her car. Security officers shot and killed a man involved in a domestic dispute who smuggled a knife into the courthouse and threatened to use it. In several cases, bomb and other threats to judges have required the closing of courts or courtrooms. A felony consequence for these threats and disruption of judicial business is more appropriate than the existing misdemeanor.

PERFORMANCE IMPLICATIONS

The AOC reports that 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 percentage of cases filed; and percentage change in case filings by type.

The NMCD advises that unless the number of new convictions resulting from this bill and other "new crime" bills is high, the Department should be able to continue providing (at current staffing levels) its current level of prison-related and probation/parole supervision services to prisoners, probationers and parolees.

ADMINISTRATIVE IMPLICATIONS

As to the AOC, there may be an administrative impact on the courts as a result of an increase in caseload and or in the amount of time necessary to dispose of these cases.

NMCD asserts that unless the number of new convictions resulting from this bill and other "new crime" bills is high, the Department should be able to continue providing (at current staffing levels) its current level of prison-related and probation/parole supervision services to prisoners, probationers and parolees without having to hire new FTEs.

CONFLICT

This bill conflicts with SB 10 to the extent that in paragraphs A and B of this bill, the threat against the judge or the judge's family member must cause "the judge or the family member to reasonably believe that the judge's or the family member's person or property is in danger." SB 10 does not contain this additional element.

OTHER SUBSTANTIVE ISSUES

NMCD comments that the bill does not protect probation and parole officers or other NMCD staff (Wardens, classification officers, etc.) who testify in relevant hearings. These NMCD employees also testify and perform other services on behalf of the criminal justice system. They are also subject to intimidation and retaliation from NMCD inmates and their relatives, and extending this bill to include them would be beneficial to them (in the performance of their duties) and to the criminal justice system.

MD/bym