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FISCAL IMPACT REPORT

ORIGINAL DATE 1/23/19
 LAST UPDATED 2/08/19

SPONSOR Rehm HB 110/ aHJC

SHORT TITLE Court Judgement for Collection SB _____

ANALYST Torres

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	None	See fiscal Implications		See fiscal Implications	Recurring	General Fund
	None	(\$220.0)	(\$220.0)	(\$440.0)	Recurring	Bench Warrant Fund
Total	None	See fiscal Implications		See fiscal Implications		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Attorney General (NMAG)
 Administrative Office of the Courts (AOC)
 Public Defender Department (PDD)
 Metropolitan Court

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment to House Bill 110 strikes language that provided district courts the ability to assess reasonable costs for the collection of fines, fees or costs that remain unpaid 90 days after the issuance of the judgement and sentence. It also strikes all provisions relating to collection by metropolitan and magistrate courts.

Synopsis of Original Bill

HB 110 adds new material to Chapter 34, Article 6 NMSA 1978 allowing district, metropolitan, and magistrate courts to assess reasonable costs for the collection of fines, fees or costs from a judgment and sentence issued by the court that may be enforced in the same manner as a civil judgment in a district court. The money judgment may be assigned by the court to a public or

private agency or business for collection purposes. Collection costs may not exceed 25 percent of any fine, fee or cost that remain unpaid for more than ninety days.

FISCAL IMPLICATIONS

The AOC reports:

The Metropolitan Court and Magistrate Courts already have processes in place to transmit money judgments to collection agencies. District courts currently have no authority or mechanism to pursue non-compliant defendants. Fines, fees, and costs cannot be used to pay for services or vendors who assist with compliance. Magistrate and Metropolitan Courts are currently funding these operations via their respective warrant enforcement funds (34-8A-12 and 35-6-5 NMSA 1978) at an annual cost of \$212,000. The warrant enforcement fund provides \$100 per case. These funds are quickly exhausted in the pursuit of non-compliant defendants. The ninety day period in the bill will allow defendants the opportunity to appear in court to request alternate arrangements, or to participate in the courts compliance programs.

The Public Defender Department (PDD) noted that bill could result in additional litigation and create the need for court hearings to determine time for payment or if property liens or other remedies would be applied in the event of further non-payment. The creation of additional, litigation would likely involve PDD as they relate to a financial judgment from a criminal matter in which PDD represented that defendant. PDD provided no estimates of additional costs, but notes that it may require additional resources to replace attorney time diverted for such hearings.

SIGNIFICANT ISSUES

For a similar bill, House Bill 151, 2011 session, the PDD also noted that the proposed changes could aid in its efforts to assist clients by providing additional civil remedies to recover unpaid fines, as opposed to current remedies available to the courts such as the imposition of criminal penalties such as contempt of court and imprisonment.

OTHER SUBSTANTIVE ISSUES

This bill was introduced in the 2011 Legislative session (HB 151 / Rehm). The bill passed the House of Representatives 57-11 and passed the Senate 22-16. It was pocket vetoed by Governor.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The courts will continue to have to use state monies to fund its efforts to seek defendants' compliance with court-ordered fines and fees.

IT/al/sb