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FISCAL IMPACT REPORT

SPONSOR HJC ORIGINAL DATE 2/27/19
LAST UPDATED _____ HB 442/HJCS
SHORT TITLE Arson Definitions SB _____
ANALYST Edwards

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		No Fiscal Implications				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From (on the original bill)

Department of Public Safety (DPS)

Administrative Office of the Courts (AOC)

Law Office of the Public Defender (LOPD)

SUMMARY

Synopsis of Bill

The House Judiciary Committee substitute for House Bill 442 amends Section 30-17-5 NMSA 1978 to increase the penalty for fires intentionally accelerated. If a fire that causes between \$500 and \$2,500 of damage, a fourth-degree felony, was intentionally accelerated, the penalty is now a third-degree felony. Similarly, if a fire that causes between \$2,500 and \$20 thousand of damage, a third degree felony, was intentionally accelerated, the penalty is now a second-degree felony.

House Bill 442 adds “damaging or destroying wildlife” as an outcome of negligent arson as well as bodily injury to or the death of a public safety officer, another person, or damage or destruction of an occupied building or structure. The bill defines public safety officer and wildland. The bill adds bodily harm to a peace officer and damage to wildland as outcomes of aggravated arson.

FISCAL IMPLICATIONS

DPS and LOPD explain House Bill 442 is unlikely to have fiscal implications. AOC explains there will be a minimal administrative cost for statewide update, distribution, and documentation

of statutory changes.

By expanding the definition of arson, there is a possibility more offenders could receive prison time as a result of the bill; however, it is unlikely a large number of additional people will be imprisoned as a result, and this analysis anticipates those costs could be managed within the department's current budget capacity.

SIGNIFICANT ISSUES

AOC explains:

The “current definition of wildland implies areas of vegetation, but not land lacking vegetation such as some land formations. Land formations such as caves, arches, stacks, stumps, hills, valleys, etc. can also be destroyed or damaged by fire or explosion and may not be covered under proposed meaning of ‘wildland’. A public safety officer is considered a person. It is unclear why adding ‘including a public safety officer performing the officer’s duties’ needs to be added.”

DPS analysis states:

DPS is not sure why “death” is included in §30-17-5 G (1) NMSA 1978 defining negligent arson as causing “the death or bodily injury” of another person or public safety officer, but omitted from §30-17-6 A NMSA 1978 defining aggravated arson as causing a person including a public safety officer only “great bodily harm.” The former is a fourth degree felony and the latter is a second degree felony.

TE/gb/sb