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FISCAL IMPACT REPORT

SPONSOR: Payne DATE TYPED: 03/01/01 HB _____
 SHORT TITLE: Harassment By Motor Vehicle SB 721/aSJC
 ANALYST: Gonzales

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
			See Narrative		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY01	FY02			
	Undeterminable		Recurring	Current School

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Office of the Attorney General (AG)
 Administrative Office of the Courts (AOC)
 Bernalillo County Metropolitan Court
 Administrative Office of the District Attorneys (AODA)
 Corrections Department

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment strikes the provision that would revoke a person's driver's license for one year if guilty of harassment by a motor vehicle keeping only the provision making the offense a misdemeanor.

Synopsis of Original Bill

Senate Bill 721 expands the Harassment and Stalking Act so whoever commits harassment by a motor vehicle is guilty of a misdemeanor and shall have his driver's license revoked for one year.

Significant Issues

The bill states harassment by a motor vehicle consists of “knowingly pursuing a pattern of conduct while operating a motor vehicle that is intended to annoy, seriously alarm or terrorize another person and that serves no lawful purpose.” Additionally, the conduct must be such that it would cause a reasonable person to suffer substantial emotional distress.

PERFORMANCE IMPLICATIONS

The impact on the judiciary depends upon how many new prosecutions/cases would result which, if significant, may result in the need for additional resources to avoid a negative impact on the efficiency of the criminal related operations.

FISCAL IMPLICATIONS

Additional fiscal impact on the judiciary as a result of this bill would be proportional to the enforcement of this law, increases caseloads and commenced prosecutions.

Collected fines would create some, presently undeterminable amount of revenue for the “current school fund”.

The Corrections Department reports the following fiscal impact to the department:

Since the misdemeanor offense is entirely new, it is difficult for the Department to estimate the number of new convictions that will result from this bill. However, the Department roughly estimates that there will be from approximately fifty (50) to one hundred (100) convictions for the new misdemeanor offense each year. The Department further anticipates that vast majority of the persons convicted of the new misdemeanor offense will be placed under the Department’s probationary supervision for one (1) year. The cost per client in Probation and Parole for a standard supervision program is \$1,536 per year. The cost per client in Intensive Supervision programs is \$3,922 per year. The cost per client in Department-Operated Community Corrections programs is \$5,519 per year. The cost per client in Privately-Operated Community Corrections programs is \$10,724 per year. The bill will result in a minimal increase in revenue from the probation supervision fees and fines collected from those convicted of the new misdemeanor offense.

ADMINISTRATIVE IMPLICATIONS

See fiscal implications above. Additionally, the Corrections Department reports a moderate increase in the administrative burden upon the department’s probation personnel to supervise a larger caseload.

OTHER SUBSTANTIVE ISSUES

The Office of the Attorney General states the following in its bill analysis:

It is confusing whether this bill intends to address a pattern of ‘drive by’ harassment or the more spontaneous ‘road rage.’ In either case, the language is problematic because the elements of the offense are very subjective. A ‘victim’ may see another drive by his home every day at the same hour and time and conclude from “the looks” of a

driver or the driver's demeanor that stalking and harassment is occurring. The accused may merely be going to work, enjoying a 'Sunday Drive' or pursuing other legitimate business. If the bill is intended to address sudden outbursts of road rage, again the language does not go far enough to delineate what might legitimately "cause a reasonable person to suffer emotional distress." The accuser will almost always be a private citizen who may have a vendetta or emotional reaction that is out of proportion to the conduct of the accused. In other words, the law calls for entirely subjective determinations without collateral evidence of an injury or delineation of the "pattern of conduct." As such, the fiscal impact to this office probably will not be enormous, but without more clarification, will certainly introduce an entirely new body of defendants to these offices' already crowded rolls.

This bill creates a new misdemeanor-level criminal offense which are punishable by up to 364 days in jail and/or a \$1,000 fine.

JMG/njw:ar