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FISCAL IMPACT REPORT

SPONSOR: HJC DATE TYPED: 02/11/02 HB CS/242/aSJC
SHORT TITLE: Waive Fees for Certain Crime Victims SB _____
ANALYST: Wilson

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY02	FY03			
	\$0.1 See Narrative		Recurring	Local

SOURCES OF INFORMATION

Attorney General's Office (AG)
Administrative Office of the Courts (AOC)
Department of Public Safety (DPS)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee Amendment to the House Judiciary Committee Substitute for House Bill 242 made the following changes:

The short title is changed to read: "RELATING TO DOMESTIC ABUSE; PROVIDING FOR FORBEARANCE OF COSTS FOR FILING OF CRIMINAL CHARGES FOR VICTIMS OF DOMESTIC ABUSE; CLARIFYING POLICY REGARDING DUAL ARRESTS IN DOMESTIC ABUSE INCIDENTS; PROVIDING FOR TRAINING FOR POLICE OFFICERS; DECLARING AN EMERGENCY."

The amendment discourages dual arrests of persons involved in incidents of domestic abuse. In making arrests for domestic abuse, the law enforcement officer is encouraged to identify the party who acted in self-defense.

The amendment emphasizes that the victims who benefit from this bill must be victims of "domestic abuse". Also this bill also combines "harassment", "stalking" and "aggravated stalking" into one category.

The amendment requires that domestic abuse incident training shall be included in law enforcement and in-service training classes.

Synopsis of HJC Substitute

HB 242/HJCS prohibits charging an alleged victim of domestic violence the costs of filing a criminal charge, the issuance or service of a warrant, the issuance or service of a witness subpoena or the issuance or service of a protection order.

HB 242/HJCS adds qualifying language limiting the section on harassment to harassment when the alleged victim is also an alleged victim of domestic abuse as provided in current law. Therefore, the \$20 fee will not be waived in non-domestic violence situations such as when a citizen files a criminal complaint against his or her neighbor for harassment.

HB 242/HJCS also states that domestic violence incidents are complex and require special training on the part of law enforcement officers, that the state of New Mexico discourages dual arrests, and that when making arrests, and law enforcement officer shall seek to identify and shall consider whether one of the parties acted in self-defense.

HB 242/HJCS has an emergency clause.

Significant Issues

These amendments are being made so that state law will comply with requirements in the federal Violence Against Women Act of 2000. The US Department of Justice refused to continue funding grants of about \$1 million, citing several problems including discouraging arrests. Section 1 of this bill appears to tighten up another requirement of the Violence Against Women Act relating to charging fees.

Currently, a citizen can file criminal misdemeanor complaints in magistrate court. Citizens will file these complaints when the police have decided, for whatever reasons, not to file the case. Often police will not file because there is no probable cause to file the complaint. In the vast majority of domestic violence cases, police departments or the district attorney's office are involved in filing the case and no filing fees are charged.

FISCAL IMPLICATIONS

The courts will lose a small amount of money when a person files under this act since certain court fees are waived.

DPS notes that the impact will be felt by Sheriffs' agencies and municipal law enforcement agencies, which normally serve the documents mentioned.

ADMINISTRATIVE IMPLICATIONS

DPS says that a possible impact is if some County agencies are required to cut personnel because of the fees no longer being paid for document service. If this happens DPS Law Enforcement Personnel will see an increase in calls for service. This increase will impact performance measures as Officers will be responding to additional calls opposed to patrolling and handling regular calls for service.

OTHER SUBSTANTIVE ISSUES

The AG has provided the following:

HB 242 amends the Criminal Code to remove the possibility that victims would incur the cost of prosecuting sexual crimes, stalking or harassment, crimes against household members, and violations of protection orders. HB 242 also makes it possible to seek a protective order against an offender in those crimes without cost to the victim. The costs of the prosecution of crimes is typically a cost borne by the State, and this bill creates a safety net to insure that none of these costs are misdirected at a crime victim in those instances where inadequate funding or inadequate staffing might lead to such a result.

Currently, “domestic abuse” victims are entitled to protective orders without charge. This bill clarifies the type of crime victims who could receive free protective orders. Those victims who could receive a protective order without charge under the terms of this bill include victims of “crimes against a household member”, stalking or harassment, sexual offenses and victims of violations of protective orders.

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