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FISCAL IMPACT REPORT

SPONSOR Jennings DATE TYPED 02/07/05 HB _____

SHORT TITLE Identity Theft as a Felony SB 260

ANALYST Wilson

APPROPRIATION

| Appropriation Contained | | Estimated Additional Impact | | Recurring or Non-Rec | Fund Affected |
|-------------------------|------|-----------------------------|---------------|----------------------|---------------|
| FY05 | FY06 | FY05 | FY06 | | |
| | | | See Narrative | | |

SOURCES OF INFORMATION

LFC Files

Responses Received From

- Administrative Office of the Courts (AOC)
- Administrative Office of the District Attorneys (AODA)
- Corrections Department (CD)
- Public Defender Department (PDD)

SUMMARY

Synopsis of Bill

Senate Bill 260 amends Subsection C of Section 30-16-24.1 to make the penalty for theft of identify a fourth degree felony. Current law states that whoever commits theft of identify is guilty of a misdemeanor.

Significant Issues

The PDD notes this bill does not equate its penalty to any amount taken as do the statutes for larceny and unlawful use of a credit card. There may be a double jeopardy problem if a person is convicted of both identity theft and unlawful use of a credit card, for example.

Albuquerque White Collar Detective Chad Melvin has stated there are approximately 300-400 cases of fraud or forgery that involve identity theft every month. This crime is happening with increasing frequency.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution, and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws and increased penalties have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

The fiscal implications are indeterminable at this time. However, as various laws have been passed either creating new offenses or enhancing penalties district attorneys caseloads have increased. The AODA claims district attorneys have had minimal budget and FTE increases to deal with the increased workload adequately.

This bill will increase costs to the CD to a moderate to substantial degree as a result of making the crime a new felony. Defendants may now be sent to prison for the offense which would result in an increase to the incarcerated population. However, the vast majority of those convicted under the law will be placed on probation with restitution ordered. The CD's probation and parole will not have sufficient staff to properly supervise the new cases and disperse the restitution to the victims. This will greatly increase the burden on our Criminal Obligation Payment System (COPS). Hundreds of new cases may enter the system every month.

ADMINISTRATIVE IMPLICATIONS

The CD believes in both the short term and the long term, this bill will moderately to substantially increase the administrative prison staff and probation and parole staff because of the increasing prison population and probation caseloads.

The AODA also believes this bill will result in more cases referred to district attorneys for prosecution thus increasing current workloads.

DW/njw