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## FISCAL IMPACT REPORT

ORIGINAL DATE 2-10-06  
 LAST UPDATED 2/11/06      HB 577/aHJC

SPONSOR Lujan, B

SHORT TITLE Crime Of Unlawful Audiovisual Recording      SB \_\_\_\_\_

ANALYST Surdi/Baca

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	None		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General's Office (AGO)  
 Administrative Office of the Courts (AOC)  
 Economic Development Department (EDD)  
 Department of Public Safety (DPS)

### SUMMARY

#### Synopsis of HJC Amendment

The House Judiciary Committee amends the bill to require by a "preponderance of the" evidence that he/she was illegally detained by the theater owner or an agent of the theater owner acting in good faith. The bill had previously required that the plaintiff provided "clear and convincing" evidence as proof that he/she had been illegally detained.

#### Synopsis of Original Bill

House Bill 577 does not appropriate monies from any funding source. The purpose of HB 577 is to create a new criminal offense of the Unlawful Operation of an Audiovisual Recording Device, which makes it a misdemeanor for anyone to record or transmit a movie from a movie theater without the theater owner's permission. The Act permits theater personnel to detain alleged violators for law enforcement without civil liability unless plaintiffs can show by clear and convincing evidence that the detention was unreasonable. The Act allows law enforcement to operate such devices in a movie theater when such operation is part of an investigation.

## **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, amendments to existing laws, and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

## **SIGNIFICANT ISSUES**

Thus far, thirty seven states have enacted legislation similar to HB577 in order to put a stop to a growing black market industry of “bootleg” DVDs of current motion pictures. The legislation is being promoted by the Motion Picture Association of America and the Movie Theater Owners’ Association. Apparently, there are organized professional groups that make arrangements with movie projectionists to bring in their camcorders and record movies that they later burn onto a disc. The federal law (the Family Entertainment and Copyright Act) requires the permission of the “copyright” owner. In HB 577, the theater owner’s permission is required

## **PERFORMANCE IMPLICATIONS**

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the areas of cases disposed of as a percent of cases filed, the percent change in case filings by case type, and clearance rate.

## **OTHER SUBSTANTIVE ISSUES**

The definition for “audiovisual recording device” provided for in HB577 also covers the cell phone user that can record videos from their phone. Given cell phone technology and the widespread use of cell phones, especially among juveniles, one can envision situations where pranksters only record portions of a movie for fun, and not for any evil that the statute is designed to address. This might be an element to add to HB 577 since the apparent intent of the Act is to prohibit individuals from recording movies for sale without compensation for the copyright owner or the theaters that show it.

GS/nt:mt