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FISCAL IMPACT REPORT

ORIGINAL DATE 2/06/07

SPONSOR King LAST UPDATED _____ HB 663

SHORT TITLE Child Solicitation by Electronic Devices SB _____

ANALYST C. Sanchez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 520 and 578, and SB 439, 450, 468 and 528

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Public Defenders Department (PDD)
 Corrections Department (CD)
 Public Education Department (PED)

SUMMARY

Synopsis of Bill

House Bill 663 amends Section 30-37-3.2 NMSA 1978 to create the crime of “child solicitation by electronic communication device,” consisting of a person knowingly and intentionally soliciting a child under 16 by means of an electronic communications device. The new crime is an update of the old crime of “child solicitation by computer.” The new crime is contained within the meaning of “sex offense” as used in the Sex Offender Registration and Notification Act, Section 29-11A-1 et. seq. NMSA 1978. The penalties for commission of the crime are as follows:

- a. child solicitation by electronic communication device when the person attends or is present at a meeting that the person arranged pursuant to the solicitation = **second degree felony**

- b. child solicitation by electronic communication device = **third degree felony**
- c. child solicitation by electronic communication device when the person knowingly and intentionally communicates with a child under 16 by sending the child images of the person's intimate parts by means of an electronic communication device = **fourth degree felony**

HB 663 provides that for purposes of determining jurisdiction, child solicitation by electronic communication device is committed in this state if an electronic communication device transmission either originates or is received in this state. The Act defines "electronic communications device" to mean "a computer, video recorder, digital camera, fax machine, telephone, pager, audio equipment or any other device that can produce an electronically generated image, message or signal." The Act also defines "intimate parts" to mean "the primary genital area, groin, buttocks, anus or breast."

HB 663 also amends the following statutes:

- Section 31-18-25 NMSA 1978 to include criminal sexual contact of a minor in the second or third degree within the meaning of "violent sexual offense" as used in the Criminal Sentencing Act.
- Section 31-21-10.1 NMSA 1978 to include child solicitation by electronic communication device within the meaning of "sex offender" for purposes of determining periods, terms and conditions of parole.

The effective date of the Act is July 1, 2007.

SIGNIFICANT ISSUES

The Act is recognizing and responding to technological advancements in electronic communication devices.

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 following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

This bill could impact the Corrections Department's programs if there were more than just a few additional convictions.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to HB 520 and 578, and SB 439, 450, 468 and 528.

OTHER SUBSTANTIVE ISSUES

According to the Administrative Office of the Courts, it is not clear in section 30-37-3.2 B. what the legislation is attempting to make a 2nd degree felony. The question is does this definition only apply to a "meeting" that actually occurs between the perpetrator and a child? The term "meeting" could be construed as the section only applying when the perpetrator and child

actually meet and no other situation. This could prove problematic when a child is in the same location as the perpetrator but there has not been a “meeting” or the officer posing as a child is not at the “meeting”.

ALTERNATIVES

Amend the bill to read “except a person is guilty of a second degree felony if the person attends a meeting or is present at a location the person arranged pursuant to the solicitation” at page 5, line 16.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The offense of child solicitation by computer will not be amended to include all electronic communication devices, and the offense will not be added to the list of offenses enumerated under the Sex Offender Registration and Notification Act.

CS/csd