

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 01/27/09

SPONSOR Chasey LAST UPDATED _____ HB 211/aHJC

SHORT TITLE Crime Victim Employment Leave SB _____

ANALYST Wilson

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	\$0.1	\$0.1	\$0.1	\$0.1	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to House Bill 103

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Administrative Office of the District Attorneys (AODA)
 Bernalillo County Metropolitan Court (BCMC)
 Corrections Department (CD)
 Public Defender Department (PDD)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment clarifies and expands the bill to include any meeting with the office of the prosecutor or defense attorney, not just a judicial proceeding.

In addition, the amendment expands the definition of satisfactory evidence to include a notice of hearing, a subpoena or a written or electronically transmitted request for a meeting from the office of the prosecutor or defense attorney.

Synopsis of Original Bill

House Bill 211 establishes the right of an employee to obtain leave to attend judicial proceedings in a criminal case in which the employee is an alleged victim. The bill also authorizes the employer to ask the employee for satisfactory evidence of the existence of a criminal action the

employee wishes to attend.

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 will be proportional to the enforcement of this law through litigation. 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

The AOC notes the following:

This bill does not contain a maximum amount of time an employee may use to attend criminal court proceedings. This is in contrast with the federal Family Medical Leave Act, for instance, which grants twelve weeks of time for family-related leave. Extended absences or an unlimited number of shorter absences could interfere with or frustrate an employer's legitimate business interests if the employee is a key staff member or is one of only a small number of employees.

This bill also does not contain an anti-retaliation provision. If a court is called upon to decide the issue of whether an employer may retaliate against an employee for exercise of the rights this Bill grants, the court will have to infer the Legislature's intent. One court may infer that if the Legislature did not include an anti-retaliation provision, the Legislature intended not to protect against retaliation. Another court may infer that the Legislature will not bother to create a right against the exercise of which an employer may retaliate. Either inference is a reasonable one.

The AODA believes the provisions of this bill may make a victim more likely to report a crime if the employee knows he or she will be allowed leave. However, this bill will allow victims to be present at every stage of the proceeding and could result in a week or more of lost time to the employer.

ADMINISTRATIVE IMPLICATIONS

State and local governments will be required to give leave to employees who are victims of crimes. The impact on the affected agencies should be minimal.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 211 overlaps with HB 103 to an extent. HB 211 grants the right of leave from work to attend judicial proceedings related to a crime of which the employee is a victim. HB 103 grants the right of leave to an employee to protect the employee from domestic violence, which can include attending judicial proceedings. An employee who is a victim of domestic violence, and who must attend a criminal proceeding in order to be protected from further domestic violence, that employee will be covered by both HB 211 and HB 103.

DW/svb