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FISCAL IMPACT REPORT

ORIGINAL DATE 2/11/09

SPONSOR Rodella LAST UPDATED 3/3/09 HB 584/aHJC

SHORT TITLE Jury Service Excusals SB _____

ANALYST Sanchez, C

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	Indeterminate	Indeterminate	Indeterminate	Indeterminate	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Bernalillo County Metropolitan Court (BCMC)
 Department of Finance and Administration (DFA)

SUMMARY

Synopsis of HJC Amendment

The amendment approved by the Senate Judiciary Committee adds the words “undue or” on page 2 line 19 of House Bill 584.

According to the AOC, it appears that “undue” in this context means “unwarranted, not of the person’s doing.” It increases the breadth of what could be considered reasonable grounds for excusal, which could potentially increase the juror excusal rate. However, both the bill and the amendment maintain the court’s discretion in granting the excusal, so it appears this change would have little impact beyond that identified in the original analyses.

Synopsis of Original Bill

House Bill 584 amends Section 38-5-2 NMSA 1978 having to do with excusing prospective jurors from jury service.

Section 38-5-2 (B) stated in part that a person may be excused from jury service at the discretion of the judge or judge's designee with or without the person's personal attendance upon the court. HB 584 removes, "... with or without the person's personal attendance upon the court."

Section 38-5-2 (C) is inserted which replaces the phrase and further defines 'with or without the person's person attendance ...' Subsection 'C' provides for additional information to be submitted to the court. The additional information would include the person submitting a written request within the required time frame indicated on a summons, providing satisfactory evidence supporting the exemption and information that the exemption was being sought due to 'extreme physical hardship'.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. There may be increased jury administrative costs related to following up on deadlines and processing written requests and related "evidence." It is unlikely that HB 584 would result in any significant cost savings as the bill does not change any part of the current statute related to fees or mileage reimbursements.

SIGNIFICANT ISSUES

The current summons states that individuals requesting an excusal must respond immediately, but immediately is not defined, i.e., no deadline provided. This bill would require the establishment of a deadline, which may result in more timely responses from those requesting excusal. Currently, the summons states that an individual requesting a medical excusal or excusal as primary caregiver of someone who is ill must provide a letter from a physician or health care provider supporting their request for excusal. Other possible reasons for excusal listed on the summons are financial hardship, age, student, other. Individuals requesting excusal for one of these reasons are asked to "Please enclose a detailed explanation..."

HB 584 requires those requesting excusal do be present in court if they not provide a written request with "satisfactory" evidence for their request by a set deadline.

"Satisfactory evidence" is not defined, but is left to the discretion of the court. Accordingly, it is unclear if the amendment would significantly impact the discretionary decisions of the courts regarding juror excusals, but it appears to have the potential to reduce the excusal rate.

New Mexico currently has a juror excusal rate two and a half times that of the national average among state courts surveyed by the National Center for State Courts; 25% excusal rate in New Mexico, 9% nationally.

Currently, the Bernalillo County Metropolitan Court is experiencing a high rate of excusals for single parents and caregivers and a similarly high rate of individuals who fail to appear at the Court in response to their jury summonses. As a result, the Court is already straining to meet the increasing number of jury demands.

PERFORMANCE IMPLICATIONS

This bill may have an impact on juror excusal rates and jury yield, percent of summonsed jurors who are qualified for service.

ALTERNATIVES

According to the Bernalillo County Metropolitan Court, extreme physical hardship excusals should be dealt with on a case-by-case basis. The Court currently accommodates individuals who are unable to serve on jury service, whether for physical hardship or otherwise, by permitting postponement of service for up to six (6) months. The Court believes that the six (6) month period is more than sufficient for the majority of individuals that request an excusal for extreme physical hardship.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

CS/mt