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FISCAL IMPACT REPORT

ORIGINAL DATE 01/27/12

SPONSOR Jennings LAST UPDATED _____ HB _____

SHORT TITLE Crime of Failure to Report Death of a Child SB 97

ANALYST Chabot

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Minimal	Minimal	Minimal		

(Parenthesis () Indicate Expenditure Decreases)

Relates to Senate Bill 13

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Attorney General Office (AGO)
 Children, Youth and Families Department (CYFD)
 Corrections Department (CD)
 Department of Public Safety (DPS)
 Public Defender Department (PDD)

SUMMARY

Synopsis of Bill

Senate Bill 97 creates a new section of the Criminal Code making failure to report the disappearance of a child or an adult with Alzheimer's or another degenerative brain disorder by a parent, guardian or other person having the care, custody or control within 24 hours of a disappearance as a misdemeanor. However, if a reasonable person would believe the child or the adult was in danger of physical harm, the failure to report is a fourth degree felony. Failure to report the death of a child within one hour by a parent or guardian if the death was not under the care of a health care professional or emergency medical personnel is a misdemeanor unless a reasonable person would believe the death occurred as a result of a crime, the failure to report is a fourth degree felony.

FISCAL IMPLICATIONS

Funding to enforce this bill is deemed include in law enforcement and district attorney appropriations. The PDD states they could absorb a small increase in caseload resulting from

enacting this bill. CD states the two new felony crimes created by the bill could lead to higher costs depending on the number of cases prosecuted, and the classification of the inmate and custody level assigned. The average cost of a male prisoner varies from \$30,093 per year in a contract or private prison to \$36,700 in a state owned and operated prison. Female average cost is \$32,408 per year. Probation and Parole costs are \$2,608 annually and Community Corrections cost \$5,524 per year.

SIGNIFICANT ISSUES

AGO opines enacting the bill may open the potential for more calls to law enforcement and increased burden on law enforcement resources.

CYFD states similar legislation is being introduced in a number of states resulting for the murder of two-year old Caylee Anthony in 2008 in the state of Florida.

CD is concerned about its ability to absorb additional inmates if a large increase results from this bill.

DPS assesses there may be a slight increase in caseload associated with passage of the legislation. In addition, it is concerned about possible Miranda complications because the desire will be to get as much information from an accused to try and find the missing individual. In addition, the differing levels of crime classification from misdemeanor to fourth degree felony may result in a problem of sufficient proof for a prosecutor. Lastly CD notes failure to report a death would apply to any person, not just a child or an individual with Alzheimer's or other degenerative brain disorder, and this may be seen as a substantial departure from current law.

RELATIONSHIP

SB 97 is related to SB 13 includes reporting requirements for a child and makes failure to report a misdemeanor.

TECHNICAL ISSUES

AGO states there is no definitions of "another degenerative brain disorder" or what constitutes the child or adult to be "missing."

OTHER SUBSTANTIVE ISSUES

The AGO offers that parents or guardians may not know when a child went missing. In some instances, a parent may not know a child died and gives an example of an automobile accident when the parent or guardian is not with the child at the time of the accident. The short timelines "may ensnare innocent parents."

PDD suggests additional definitional language should be included to forestall litigation. CD points out Section 2 of the bill refer to "any person who failed to report the death." Section 1 refers to parent, guardian or person.