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FISCAL IMPACT REPORT

ORIGINAL DATE

SPONSOR Smith **LAST UPDATED** 02/08/13 **HB** 313

SHORT TITLE Fugitive Recovery Agent Qualifications **SB** _____

ANALYST Canney

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		
NFI	NFI	NFI		

(Parenthesis () Indicate Revenue Decreases)

Relates to HB 312

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Administrative Office of the District Attorneys (AODA)
 Attorney General's Office (AGO)
 Public Regulation Commission (PRC)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

House Bill 313 amends chapter 59A, Article 51, by adding a new section that authorizes a bail bondsman licensed under the Bail Bondsman Licensing Act to retain in writing the services of a fugitive recovery agent to investigate, locate, arrest, and hold a fugitive after notifying local law enforcement. The bill holds the licensed bail bondsman responsible for the qualifications and behavior of the fugitive recovery agents they hire.

The bill requires the agent to be at least 21 years of age, have earned a high school diploma or GED, have completed a fugitive recovery training course, wear clothing that identifies the agent as a fugitive recovery agent, and notify local law enforcement prior to the recovery.

The bill requires that a recovery agent shall not:

- forcibly enter a home without consent of an adult at the home,
- use a firearm during recovery,
- intentionally damage property at any location,
- intentionally injure a person during the recovery of a fugitive, or
- have been convicted of a felony.

SIGNIFICANT LEGAL ISSUES

The Attorney General’s Office (AGO) stated that the term fugitive recovery agent should be defined in the bill, should be licensed, and suggests the possible duplication of roles between solicitor and fugitive recovery agent. The AGO reported that:

Chapter 59A, Article 51 has a section defining, bail bondsmen, solicitor, etc.... A definition for fugitive recovery agent should be added to the section. A solicitor who is employed by a bail bondsman is required to be licensed. If this new category of bail bondsman agent is indeed approved by the Legislature, then license requirements should be enacted. The fugitive recovery agent seems to duplicate the role of a solicitor defined as “a person employed by the bail bondsman for the purpose of assisting the bail bondsman in ... the apprehension and surrender of defendant to the court or keeping the defendant under necessary surveillance....”

The Administrative Office of the Courts (AOC) states that the functions and duties of a fugitive recovery agent may overlap with the functions and duties of a solicitor prescribed in the Bail Bondsman Licensing Law. The AOC also recommends that the bill clarify what is meant by, “retain in writing”, as a contract, letter of offer, etc...

The Public Regulation Commission (PRC) expressed reservations about the appropriateness of the Insurance Division of the PRC to maintain oversight. The PRC stated that:

Fugitive recovery agents are currently unlicensed and unregulated in New Mexico despite their use of weapons and their authority to apprehend fugitives. Their licensing and regulation would be more appropriately handled by law enforcement agencies or by the Regulation and Licensing Department than by the Insurance Division of the PRC.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The PRC stated that the consequence of not passing the bill will allow the fugitive recovery agents to remain completely unregulated in New Mexico.

JPC/svb