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FISCAL IMPACT REPORT

ORIGINAL DATE 3/03/17

SPONSOR Rehm LAST UPDATED _____ HB 475

SHORT TITLE Modify Crime of Concealing Identity SB _____

ANALYST Sánchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		None	none	None		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Administrative Office of the District Attorneys (AODA)

SUMMARY

Synopsis of Bill

House Bill 475 proposes to amend Section 30-22-3 NMSA 1978 makes “disguising oneself” a separate subsection which includes use of a mask or costume with the intent to intimidate, hinder or interrupt a person in the exercise of the person’s rights. The crime of disguising oneself with a mask under this bill is a misdemeanor.

SIGNIFICANT ISSUES

The Administrative Office of the Courts (AOC) notes that anti-Mask laws first appeared in the United States in the form of local state legislation across the country in the mid-twentieth century as a means to inhibit the criminal activities of the Ku Klux Klan. In modern times, anti-mask laws have again become relevant with the social-political demonstrations of the Occupy Movement and the organization known as Anonymous (a collective group of online hackers) and a trend where masked individuals dressed as clowns incited fear in several dozen states this past year. Over the years more states have adopted identity concealment laws and many such laws have been challenged in higher court with claims of infringement of First and Fourteenth Amendment rights.

TECHNICAL ISSUES

The Administrative Office of the District Attorneys (AODA) notes that HB475 does not define “public officer.” The original statute does not define “public officer” either, but it was not a problem because the statute prohibited conduct directed to “a public officer or any other person.” Now, part of the statute focuses on actions directed solely to a “public officer,” so the term needs to be clear.

AOC suggests it would be prudent to add language that clearly defines what constitutes a mask or costume, with exceptions for religious practice, safety and medical needs addressed. Furthermore, added language regarding the determination of the implied harmful intent of the mask wearer could be addressed in order to preserve the Fourteenth Amendment rights in relation to due process.

ABS/jle