

LFC Requester: _____

**AGENCY BILL ANALYSIS
2020 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

And

DFA@STATE.NM.US

{Include the bill no. In the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original Amendment
Correction Substitute

Date January 30, 2020

Bill No: SB149

Sponsor: Sedillo Lopez Agency Name and Code AODA 264
Short Title: Prohibiting Certain Arrests in courthouses. Number: _____
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY20	FY21		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY20	FY21	FY22		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY20	FY21	FY22	3Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

SB 149 prohibits arrests of any person on court property or en route to or from court unless authorized by a judicially issued warrant. To do otherwise constitutes a contempt of Court.

Included in this bill are “persons” that includes parties to a case, counsel in a case, witnesses, victims of a crime or family or household members of parties.

Any person in a judicial proceeding may request a Writ of Protection to prevent a person to be arrested en route to staying or leaving a judicial proceeding. A writ will be obtained for magistrate, municipal and district court from the district court judge presiding in a proceeding, with appeal rights to Supreme Court.

For judicial proceedings in Supreme Court, the Supreme Court will issue the Writ of Protection.

The Standard for issuance of a Writ of Protection is “a preponderance of the evidence” standard. The application for Writ will state a basis for why the person believes the person will be subject to arrest; An explanation how an arrest would impede the person’s ability to participate in the proceeding; and the judicial proceeding the person is attending.

Execution or attempted execution of an arrest when there is a Writ, constitutes criminal contempt.

FISCAL IMPLICATIONS

There is not an appropriation, even though it will be court personnel or public defenders office will most likely assist in the drafting of such a writ.

SIGNIFICANT ISSUES

Sec. 1 B – it requires the warrant be presented to the Judge before service. Currently, a law enforcement office can serve a warrant at a courthouse after confirming with the officer’s agency that the warrant was valid. This will create a risk that persons with a warrant for a probation violation or a crime of violence would leave prior to being arrested. SB 149 prevents arrest for conduct in the presence of the officer, so if a person

attacks someone in court this bill would require that the officer has to wait for a judicially approved warrant to arrest the person.

The Writ application should include the necessity of the testimony to assist the Court in determining the need for a Writ.

It appears that a balance between the need for the testimony and the seriousness of the charges for which the “person” who needs to attend a hearing needs to be conducted by the Judge in granting the Writ.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS