

LFC Requester: _____

**AGENCY BILL ANALYSIS
2017 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 Jan. 20, 2017

Bill No: HB 110

Sponsor: Stephanie Garcia Richard

Agency Code: 264

Short Bench Warrant Jurisdiction

Person Writing Gary Cade

Title: _____

Phone: 505-507-7752

Email cadeabq@gmail.com

SECTION II: FISCAL IMPACT

Unknown

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		

--	--	--	--	--

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year 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

Synopsis: HB 110 appears to be trying expand the authority of law enforcement officers, with jurisdiction in a county in which the municipality whose ordinances are alleged to have been violated is located, to "...serve any municipal court process or make any arrests authorized by law to be made," in the county, and to also permit law enforcement officers, with jurisdiction in counties adjacent to the municipality whose ordinances are alleged to have been violated is located, to "...serve any municipal court process or make any arrests authorized by law to be made, except for parking violations," for cases arising from a municipal court in the adjoining county(ies). Presumably, they could include municipal court bench warrants.

FISCAL IMPLICATIONS

Unknown.

SIGNIFICANT ISSUES

HB 110 appears to be trying to expand the powers of municipal police officers beyond bench warrants for only municipal DWI violations to cover practically all municipal ordinance violations, and execute any bench warrant for those additional ordinance violations in the home county where the municipality is located and any adjacent county(ies). Municipal police officers are now required to "...execute and return all writs and process directed by a municipal judge of the municipality employing the police officer," and "execute and return all criminal process directed by the municipal judge in any incorporated municipality within the state if the process arises from violation of a municipal ordinance prohibiting driving while under the influence of intoxicating liquor or drugs ("DWI")." See, Sect. 3-13-2(A)(1—2), NMSA 1978. Municipal police officers are also directed to serve all criminal writs and process in any part of the county where the municipality if located and within the municipality. See, Sect. 3-13-

2(A)(3—4), NMSA 1978. Municipal police officers already have county-wide jurisdiction to execute on warrants authorized by their municipality. See, State v. Pinela, 113 N.M. 627 (Ct. App. 1992) cert. den. (1992), citing, Sect. 3-13-2(A)(3), NMSA 1978. The bill would give them authority to serve any court process or make any arrest in an adjoining county that they could make in the county where the municipality that employs them is located.

Now, “Except for criminal actions filed in municipal court, all police officers authorized to serve process in any criminal action have jurisdiction to serve such process in any county of this state.” See, Sect. 31-1-4(E), NMSA 1978. In discharge of their duties municipal police officers are granted the same powers and responsibilities as sheriffs in similar cases. See, Sect. 3-13-2(B), NMSA 1978. “The sheriff or his deputy shall serve and execute...criminal process directed to him by the municipal judge of any incorporated municipality in the state if the criminal process arises out of a charge of violation of a municipal ordinance prohibiting driving while under the influence of intoxicating liquor or drugs,” and satisfactory arrangements have been made by the municipal judge for payment to the sheriff for his services. See, Sect. 4-41-14(B), NMSA 1978. These statutes would probably also have to be revised in order for municipal police officers to execute a criminal process arising out of a case that was not based on a municipal ordinance besides DWI.

If HB 110 is not adopted but a municipal police officer has a concurrent appointment as a deputy sheriff, sometimes referred to as “cross-commission,” then municipal police officers would have the same authority to stop and arrest as a sheriff. See, State v. Marquez, 2007-NMCA-151. That should also allow them to act on municipal cases in adjoining counties and in cases other than DWI.

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS