

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Minimal	Minimal	Minimal	Minimal	Recurring	General

(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:

HB475 amends NMSA 1978, Section 30-22-3: Concealing Identity. It breaks the crime into two sections, and increases the penalty for concealment by disguise.

Paragraph 1 of the amended statute prohibits concealing one’s true name or identity with intent to obstruct the due execution of the law or with intent to intimidate, hinder or interrupt a public officer in a legal performance of the officer’s duty or the exercise of the officer’s rights under the laws. The crime is a petty misdemeanor.

Paragraph 2 of the amended statute prohibits disguising oneself with a mask or some other costume with the intent to intimidate, hinder or interrupt a person in the exercise of the person’s rights under the laws. The crime is a misdemeanor.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

Any change in criminal statutes may result in increased costs to law enforcement and district attorneys as they interpret the new provisions. It is possible that increasing the penalty for concealment by disguise will result in increased jail time, also increasing costs.

SIGNIFICANT ISSUES

As currently written, the statute prohibits concealing identity or disguising oneself with intent to obstruct the execution of the law or with intent to intimidate, hinder or interrupt a public officer or any other person in a legal performance of his or her duty or the exercise of his or her rights. The crime is a petty misdemeanor.

HB475 breaks the crime into two parts. In doing so, some actions that would be crimes under the existing statute may no longer be crimes, although the issue will be one of interpretation.

Paragraph 1 describes two criminal actions, separated by an “or:”

- The first criminal action is concealing one’s identity with intent to obstruct the due execution of the law. It does not appear to matter whether the defendant’s identity was concealed from a public officer or a private person, as long as the concealment was done with intent to obstruct the due execution of the law by someone -- a public officer or a private person). If the intent of Paragraph 1 is to only prohibit concealing identity that impedes public officer, that should be made clear.
- The second criminal action is clearly limited to concealment of identity to impede a public officer. It prohibits concealing identity “with intent to intimidate, hinder or interrupt a public officer in a legal performance of the officer’s duty or the exercise of the officer’s rights under the laws.” HB475 removes language in the existing statute that would apply to concealment of identity to “any other person” if the object was to hinder the exercise of a legal duty or exercise of legal rights. This changes the scope of the crime. Under existing law, it would be a crime to conceal one’s identity to intimidate any person in the exercise of that person’s rights. Under HB475, that is not a crime unless it is done through disguise, as described in Paragraph 2.

Paragraph 2 is directed to concealment by disguise, with the intent to intimidate, hinder or interrupt a person in the exercise of the person’s rights. HB475 raises this crime to a misdemeanor.

PERFORMANCE IMPLICATIONS

As discussed in Significant Issues, above, some actions that would be crimes under the existing statute do not appear to be covered under HB475.

ADMINISTRATIVE IMPLICATIONS

The amendment to Section 30-22-3 will require new jury instructions.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None found.

TECHNICAL ISSUES

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.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

None proposed.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The existing statute on concealing identity will still apply.

AMENDMENTS

None proposed.