

LFC Requester: \_\_\_\_\_

AGENCY BILL ANALYSIS  
2017 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)

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*{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. 30, 2017

Bill No: SB 191

Sponsor: Cliff R. Pirtle

Agency Code: 264

Short Traffic Ticket County Filing

Person Writing Gary Cade

Title: \_\_\_\_\_

Phone: 505-507-7752 Email cadeabq@gmail.com

**SECTION II: FISCAL IMPACT**

**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)**

	<b>FY17</b>	<b>FY18</b>	<b>FY19</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(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: SB 191 would require the defendant to consent to a change of venue for a magistrate to have jurisdiction over an alleged violation of criminal law relating to motor vehicles occurring in an adjoining county.

**FISCAL IMPLICATIONS**

Unknown.

**SIGNIFICANT ISSUES**

There are 64 magistrate judges sitting in 32 of the 33 counties in New Mexico (18 counties have multiple judges). There are also 18 metropolitan court judges, in Bernalillo county, that have the same jurisdiction as magistrate judges (and jurisdiction over some additional types of cases in their county). Each of the magistrates is granted jurisdiction over cases arising in the county where they serve, but they are now also given jurisdiction over any criminal law violations involving motor vehicles in any adjoining county, unless the defendant moves for a change of venue at or within 15 days of their arraignment on the charges.

SB 191 would amend the current statute and would reverse the burden so defendants would no longer have to promptly move for a change of venue. Instead, the bill would deny jurisdiction over motor vehicle cases from any adjoining county(ies) unless the defendant consents to the change of venue from the county where the alleged violation of law took place.

The groups most likely to be affected are the state police and county sheriffs who might file charges in a county adjacent to the one where a violation occurred. New Mexico State Police officers have statewide jurisdiction and are specially charged with highway traffic enforcement. See, Sect. 29-2-18, NMSA 1978. Although it is less clear, county sheriffs and their deputies can probably also enforce criminal law violation involving motor vehicles in counties besides the one where the sheriff was elected since they are given express authority, “to enter any county of this state, or any part of this state, for the purpose of arresting any person charged with a crime, whether the county so entered be the same to which the sheriff so entering was elected or not.” See, Sect. 4-41-12, NMSA 1978. Cf., *State v. Gutierrez*, 102 N.M. 726 (Ct. App. 1985) cert. den. (1985). (A deputy sheriff from one county may execute a search warrant in another county, even if they were not accompanied by any local law enforcement officers.)

If SB 191 is adopted the bill would require law enforcement officers to file criminal charges involving motor vehicle law violations only in the county where the offense(s) took place, or dismiss any case not correctly filed at the outset and re-file in the county where it occurred. If that did not occur the magistrate would not have jurisdiction to proceed in the case and the delay in getting a case before a magistrate who can exercise jurisdiction will probably run against the State. When a DWI case was filed in magistrate court and then dismissed and re-filed in district court (because the defendant would not enter a plea agreement) the six-month rule time limit started when the case was first filed. See, *State v. Saavedra*, 2010-NMSC-025. If police, and prosecutors, don't correctly file charges in the county where the alleged criminal violation occurred and defendants don't consent to a change of venue, there could be trouble meeting the six-month deadline for trial on misdemeanors. See, R. 6-506, S.C.R.A. Delays between filing a criminal indictment and getting a defendant arraigned on a felony charge might also be held against the state if the charge was filed in the wrong county and had to be dismissed and re-filed. Cf., *State v. White*, 2010-NMSC-043. (Time between indictment and getting defendant arraigned on felony charges runs against the state where defendant did not conceal himself and was, in fact, in state custody.)

## **PERFORMANCE IMPLICATIONS**

## **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**