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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/3/09

SPONSOR Neville LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Victim of Sex Offense Age Increase SB 142

ANALYST Wilson

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$0.1	\$0.1		Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
 Administrative of the District Attorneys (AODA)  
 Attorney General's Office (AGO)  
 Bernalillo County Metropolitan Court (BCMC)  
 Corrections Department (CD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 142 increases the age of the child victim from under age 9 to under age 13 for the crime of aggravated criminal sexual penetration.

The effective date of the provisions of this bill is July 1, 2009.

### FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary will be proportional to the enforcement of this law and commenced prosecutions. There may be an increase in the amount of work that needs to be done by the courts, thus requiring additional resources to handle the increase.

**SIGNIFICANT ISSUES**

This bill makes the victim's age consistent for both criminal sexual penetration and aggravated criminal sexual penetration.

The AODA notes the current states requires proof not only of the criminal sexual penetration of a child under a certain age but also that this act be accompanied "with the intent to kill or with a depraved mind regardless of human life." The punishment for this crime is life imprisonment. Changing the age of the child from under 9 years of age to under 13 years of age could potentially bring about the prosecution of more individuals. However, this is a rarely charged offense because of the very specific elements of the crime.

CD states that by expanding this crime to include victims aged nine to twelve years old, it is more likely that more individuals will be convicted of this crime. The additional felony convictions resulting from this bill will increase the CD's costs by leading to minimal and perhaps moderate increases to the inmate population and probation/parole caseloads.

CD further states that the bill seems unlikely to lead to a substantial number of new convictions, or to result in a substantial increase in the CD's inmate population or probation and parole caseloads. However, it is always difficult to predict or estimate the ultimate effect of any new crime bill with any certainty, especially those involving sex offenses with children. As is almost always the case, there is no appropriation in the bill to the CD to cover any of the CD's increased costs associated with the expansion of this crime.

**ADMINISTRATIVE IMPLICATIONS**

The affected agencies should be able to handle the enforcement of the provisions in this bill as part of ongoing responsibilities

DW/mt