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FISCAL IMPACT REPORT

ORIGINAL DATE 2/6/2014

SPONSOR Torraco **LAST UPDATED** _____ **HB** _____

SHORT TITLE Study Services to Sexually Exploited Minors **SM** 62

ANALYST Chenier

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Minimal		Minimal	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the District Attorneys (AODA)

Department of Health (DOH)

SUMMARY

Synopsis of Bill

This Memorial would establish a ten-person task force to study the delivery of services to sexually exploited minors and the effects of a possible “safe harbor” law on these minors.

FISCAL IMPLICATIONS

This task force carries no appropriation but would require some expenditure of funds for travel, and time.

SIGNIFICANT ISSUES

The AODA provided the following: the District Attorneys’ Offices, which currently provide services to all victims of crime, including sexual exploitation, and which also work with these victims in protecting them while they provide testimony against their offenders, have not been specifically named as potential participants. Their input into whether and what might be needed in safe harbor laws should be requested by either this committee or the subcommittee already involved in the revisions of the Criminal Code.

DOH provided the following:

Federal law enforcement recognizes sexually exploited children as victims of a crime. New Mexico law enforcement generally follows this practice in the absence of specific legislation. Eighteen other states have enacted some form of “safe harbor” legislation that views sexually exploited minors as victims of crime, in need of rehabilitation.

According to Darren Geist of New York University School of Law, Safe Harbor laws should have four central features. “First, Safe Harbor laws need to focus on rescuing and protecting prostituted minors. Prostituted minors need to be protected from pimps, and from themselves. They are at serious flight risk and may need to be confined in a protective service or some variant of detention. Without the option of putting victims in secure facilities, they may simply run away and return to exploitation. Second, minors have to be protected from the criminal and juvenile justice system which often treats them as criminals and delinquents. Police should be trained to approach potential cases of prostituted minors as rescues rather than arrests. Juvenile detention can itself be traumatic and harmful, reinforcing the victim’s sense of abandonment and shame, and the victims often return to life on the street upon release. These first two objectives are often at tension with one another. Third, prostituted minors are victims of sex trafficking and suffer from severe trauma and abuse. As a result, they can be difficult and troublesome victims.

OTHER SUBSTANTIVE ISSUES

DOH also stated that:

In the National Human Trafficking Resource Center (NHTRC) Database report for January 1 – June 31, 2013, there were 60 calls reported from New Mexico, and 11 survivors of human trafficking interviewed. Of these 11 cases, 6 were minors. In 2000, Congress enacted the Trafficking Victims Protection Act of 2000 (TVPA), which defines severe forms of trafficking as “Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age.” (Walters J and Davis P. (2011) Human sex trafficking, sex tourism and child exploitation on the southern border.

According to the Polaris Project, a policy advocacy group dedicated to ending human trafficking and protecting its victims, “Sex trafficking of children is a brutal form of human trafficking and child sexual abuse. Experts estimate that up to as many as 300,000 children are at risk of exploitation in prostitution every year. While the prostitution of a child is a form of human trafficking under U.S. federal law, many states do not offer legal protections to minor victims, appropriate penalties to curb demand, or services to care for severely victimized children. In many cases, these victims are treated as criminals or delinquents which results in further harm to the child”.

There need to be specialized services to handle the unique needs of minors. Regular services like shelters and foster homes are often insufficient. Many of the prostituted minors have been failed by that system time and time again. Fourth, the law needs to deter the prostitution of minors through aggressive prosecution of pimps and johns. Once prostituted minors are recognized as sex trafficking victims, efforts must be made to arrest and prosecute their exploiters. Further, the prosecution of minors hinders victim cooperation, which is almost always necessary to convict pimps and johns”

EC/jl