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FISCAL IMPACT REPORT

ORIGINAL DATE 02/07/07
 SPONSOR Larranaga LAST UPDATED 02/26/07 HB 578/aHJC
 SHORT TITLE Criminal Sexual Penetration of Children SB _____
 ANALYST Hanika Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$.1 see narrative			recurring	general fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates SB 528

SOURCES OF INFORMATION

LFC Files

Responses Received From

Children, Youth & Families Department (CYFD)
 Corrections Department (CD)
 Public Defenders Department (PDD)

SUMMARY

Synopsis of HJC Amendment

It should be noted that the drafting of the House Judiciary Committee amendment does not track with the changes proposed on pg 2 lines 19-21. However, if the changes were actually meant for lines 22-24, then the HJC Amendment will restore language relating to CSP in the second degree occurring when a perpetrator is in a position of authority over a child age thirteen to eighteen; and, uses this authority to coerce the child to submit.

Significant Issues

It should also be noted that “CSP” as defined within Statute, is the unlawful and intentional causing of a person to engage in sexual intercourse, cunnilingus, fellatio or anal intercourse or the causing of penetration, to any extent and with any object, of the genital or anal openings of another, whether or not there is any emission.

POSSIBLE QUESTIONS

How will the proposed HJC amendment relate to juvenile offenders?

Synopsis of Original Bill

House Bill 578 amends Section 30-9-11 NMSA 1978, Criminal Sexual Penetration (CSP), to provide a first degree felony for CSP of a child when the victim is less than thirteen years of age. The bill will change Second Degree CSP of a Child to encompass all CSP perpetrated upon children thirteen to eighteen years of age striking present language requiring the perpetrator to be in a position of authority over the child. Raises the term of imprisonment from three to seven years for a second degree felony for CSP upon children 13-18 years of age. The bill strikes language providing for the crime of Third Degree CSP against a child.

The bill modifies Section 31-18-15, Sentencing and Parole Authority, to mandate life imprisonment for First Degree CSP of a Child. It will allow the imposition of a fine not to exceed \$17,500. It further clarifies that CSP of a Child requires thirty years of incarceration the same as convictions for first degree felony resulting in the death of a child, before the possibility of parole.

The bill modifies Section 31-21-10.1, Sex Offenders -Terms and Conditions of Parole, to mandate that sex offenders be monitored in real time with global positioning system or any successor technology the entire time the offender is on parole.

The bill also provides appropriate gender-neutral language throughout the statutes.

FISCAL IMPLICATIONS

The bill creates a new sex offense that requires a life sentence (30 full years in prison before being eligible for parole). If a large number of offenders are convicted of this crime, the prison population and ultimately probation/parole caseloads will be increased.

The bill does not provide an appropriation to the Department to pay for electronic monitoring technology. The AGO is considering a pilot project for the Albuquerque area to provide this technology for approximately 250 sex offenders. The cost of the global positioning system (GPS) unit for 250 offenders for just one year is approximately \$766,500. The negative fiscal impact of requiring this technology is exacerbated by the fact that those convicted of sex offenses serve 5 to 20 years on parole. Further, the Department will probably have to hire additional FTEs to monitor the offenders, and to respond to offender violations. The cost of one probation and parole officer (salary, benefits and operating costs) is approximately \$53,000.

The contract/private prison annual cost of incarcerating an inmate is \$23,867 per year for males. The cost per client to house a female inmate at a privately operated facility is \$21,651 per year. Because state owned prisons are essentially at capacity, any net increase in inmate population will be housed at a contract/private facility.

The cost per client in Probation and Parole for a standard supervision program is \$1,467 per year. The cost per client in Intensive Supervision programs is \$3,383 per year. The cost per client in department-operated Community Corrections programs is \$3,503 per year. The cost per client in

privately-operated Community Corrections programs is \$7,917 per year. The cost per client per year for male and female residential Community Corrections programs is \$39,401.

SIGNIFICANT ISSUES

This bill creates a new category of sexual offense if committed against a child less than 13 years of age, “Criminal Sexual Penetration of a Child”. The penalty for this 1st degree felony is life imprisonment. This bill also increases the minimum term of imprisonment for CSP in the second degree for CSP of a child 13 to 18 years of age from three years to seven years. This bill increases the fines that may be imposed upon individuals convicted of these offenses. It also requires electronic real time monitoring using a GPS monitoring technology for all sex offenders for the entire period of parole.

PERFORMANCE IMPLICATIONS

Due to the dramatically increased penalties brought by this bill for certain crimes, there will likely be some increase in trial and appeal workload for the PDD, the AOC, and the AODA/AGO, since these offenders will be considerably less likely to take plea offers to life imprisonment.

AHO/mt