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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/6/07  
 LAST UPDATED 3/12/07

SPONSOR Lopez HB \_\_\_\_\_

SHORT TITLE Child Abuse Charges for Each Child SB 670/aSFL

ANALYST C.Sanchez

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicate, HB 582

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Corrections Department (CD)

Children Youth and Families Department (CYFD)

Public Defender Department (PDD)

### SUMMARY

#### Synopsis of Amendment

The Senate Floor amendment for Senate Bill 670 adds another subparagraph under the definitions of child abuse. The subparagraph reads, “born with addition to methamphetamine”.

The LFC suggests amendment read, “born with addiction to methamphetamine.”

#### Synopsis of Bill

Senate Bill 670 amends the current criminal statute addressing child abuse and abandonment, NMSA 1978 § 30-6-1, to establish that a separate criminal charge may be imposed for each child abandoned or abused even if the abandonment/abuse constitutes one continuous act.

## **FISCAL IMPLICATIONS**

Legislation resulting in a criminal defendant's exposure to an increased sentence in the aggregate makes it more likely that the criminal defendants affected by such legislation will proceed to trial instead of accepting a plea offer. This may result in an increased caseload and additional court time for Public Defender Department attorneys, as well as additional appellate caseload for the Public Defender Department, the Attorney General's Office and the appellate courts.

Since the Act already makes such crimes felonies in many cases, this means that offenders will be sentenced to several felony convictions at once (and probably serve the convictions consecutively) if he abuses or neglects one or more children at the same time. This will lead to longer sentences for these offenders. It will cause increases in the prison population, probably to a minimal to moderate degree.

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.

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 appears to be a legislative response to State v. Castañeda, 2001-NMCA-052, 130 N.M. 679.

The proposed legislative clarification will affect those charged for acts of abuse that implicated more than one child, but which resulted in no injury to any child, and will allow charging and conviction to range from one count up to as many counts of abuse as there were children involved.

## **DUPLICATE**

HB 582

## **OTHER SUBSTANTIVE ISSUES**

The current law provides no authority for establishing separate charges for each child involved in the abuse or abandonment, although it allows separate counts for each child. By stating that separate charges "may" be imposed, the bill does not make the filing of such separate charges mandatory.

The District Attorney retains discretion whether to invoke separate charges for each child.

The Children You and Families Department's child abuse and neglect investigations already take into account the effect on each child and when called to testify, social workers are questioned about each child. The Bill will not change CYFD's current role or duties in these cases.

In the 12-month period ending March 31, 2006, 6,491 referrals for child abuse or neglect were substantiated by CYFD.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status Quo

**POSSIBLE QUESTIONS**

Will this bill deter child abuse in New Mexico?

CS/mt