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FISCAL IMPACT REPORT

ORIGINAL DATE 02/15/13
 SPONSOR SPAC LAST UPDATED 02/19/13 HB _____
 SHORT TITLE Sentences for Injury to Persons Over 60 SB CS/229/aSJC
 ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	\$31.7-317	\$31.7-317	\$63.4-634	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 New Mexico Corrections Department (NMCD)
 Attorney General’s Office (AGO)
 Public Defender Department (PDD)
 New Mexico Sentencing Commission (NMSC)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to the Senate Public Affairs Committee substitute for Senate Bill 229 adds to three paragraphs in the bill the phrase “and the person committing the crime knew or should have known that the person was sixty years of age or older.”

Synopsis of Original Bill

The Senate Public Affairs Committee substitute for SB 229 adds the age enhancement to the Criminal Sentencing Act, NMSA 31-18-1. The amendment appears to add the age enhancement to the Sentencing Act and does not remove the enhancement from the Hate Crimes Act, NMSA 31-18B-1.

However, the last section (D) provides that any age enhancement imposed pursuant to the Sentencing Act cannot also be imposed with any enhancement under the Hate Crimes Act. In addition, the age enhancement would be served concurrently with any other enhancement imposed under the Sentencing Act.

FISCAL IMPLICATIONS

The fiscal impact noted in the above table is a range based on incarceration costs for one to 10 individuals confined for one year. The eventual cost of this legislation is unknown as no available data provides the number of crimes fitting this description was not provided.

SIGNIFICANT ISSUES

SB 229 will allow prosecutors to pursue sentence enhancements for crimes which result in injury to a person over age 60 apart from the hate crimes act. Prosecutors seeking a sentence enhancement under the hate crimes act must prove that the victim was intentionally injured and injured because of being age 60 or older. SB 229 will allow for a sentence enhancement if prosecutors can prove that an individual age 60 or older was intentionally injured.

OTHER SUBSTANTIVE ISSUES

This change allows the age enhancement to be pursued pursuant to two sections in the statutes; however, it expressly disallows the age enhancement from “doubling up” any other enhancement.

NJC:GC/blm:svb