

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 1/27/16

SPONSOR O'Neill **LAST UPDATED** _____ **HB** _____

SHORT TITLE Hate Crimes Against Homeless People **SB** 202

ANALYST Downs

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	See fiscal implications	See fiscal implications	See fiscal implications	See fiscal implications	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to House Bill 95

SOURCES OF INFORMATION

LFC Files

Responses Received From

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

SUMMARY

Synopsis of Bill

Senate Bill 202 amends the Hate Crimes Act to add a definition for "homelessness" as having no fixed, regular, and adequate nighttime residence or one that is not "designated for or ordinarily used as a regular sleeping accommodation for human beings," or is a shelter. It also adds homelessness to the list of actual or perceived characteristics that are the basis for an intention to commit a crime defined by the Act as "motivated by hate." It also changes "handicapped status" in the list to "disability, homelessness." The effective date of the changes is July 1, 2016.

FISCAL IMPLICATIONS

Enhanced sentences over time will increase the population of New Mexico's prisons and long-term costs to the general fund. According to the New Mexico Corrections Department (NMCD),

the average cost per day to house an inmate in a state prison is \$123, or about \$45,250 per year. A longer length of stay would increase the cost to house an offender in prison. In addition, sentencing enhancements could contribute to overall prison population growth, as increased lengths of stay decrease releases relative to the rate of admissions. The NMCD general fund budget, not including supplemental appropriations, has grown \$5 million, or 7 percent, since FY11 as a result of growing prison population.

According to AOC, the only costs associated with the bill would be the minimal expense to update and distribute the statutory changes. Additional impact would be proportionate to enforcement and prosecutions of the law. AOC stated that attorneys would face extra complexity in evaluation of crimes against homeless people to determine if the crime was motivated by the victim's homelessness and should be prosecuted as a hate crime. This would require additional proof elements, as well as a separate finding of fact for the motivation of the crime. With additional laws and sentences there is the potential for an increase in appeals, which could affect caseloads and operating budgets in the courts.

SIGNIFICANT ISSUES

According to AOC, in 2013 there were 12 hate crimes reported in New Mexico; 6 showing bias against race, 4 sexual orientation, 1 ethnicity, 1 religion, and 0 disability, gender, or homelessness, which is not considered by the FBI as hate crime status. Nationally, hate crimes against homelessness rose 25 percent in 2013, according to the National Coalition for the Homeless. The commission reported that over 1.4 thousand violent crimes were committed against the homeless over the past 15 years, 375 of which were murders. Perpetrators tended to be males under 30 years old, and in 2010, 50 percent of all perpetrators were males under the age of 20.

Although sentence enhancements have the potential to increase costs for the criminal justice system, the Attorney General indicated that there is not a fixed sentence included in the bill, stating, "The Hate Crime Act allows, but does not require, a court to increase the non-capital felony's basic sentence by one year for a first offense." Similarly, upon second conviction of a hate crime, the court *may* increase the sentence up to two years, but is not bound by any enhancements.

Societal benefits, particularly to potential victims, would accrue through enhanced sentences if they reduce or delay re-offenses. LFC cost-benefit analysis of criminal justice interventions shows that avoiding victimization results in tangible benefits over a lifetime for all types of crime and higher amounts for serious violent offenses. These include tangible victim costs, such as health care expenses, property damage and losses in future earnings and intangible victim costs such as jury awards for pain, suffering and lost quality of life.

RELATIONSHIP

Senate Bill 202 realties to House Bill 95, which similarly amends the Hate Crimes Act, but adds crimes against law enforcement officers to the list for enhanced sentences instead of homeless people.

JD/jle