

<b>LFC Requester:</b>	<b>Sanchez, Scott</b>
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**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:**

**AgencyAnalysis.nmlegis.gov**

*{Analysis must be uploaded as a PDF}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Check all that apply:  
**Original**     **Amendment**      
**Correction**     **Substitute**   

**Date** 1/18/24  
**Bill No:** HB 60

**Sponsor:** Rep. Stefani Lord  
**Short Title:** Crime of Desecration of a Dead Human Body

**Agency Name and Code**    AOC 218  
**Number:** \_\_\_\_\_  
**Person Writing**    Kathleen Sabo  
**Phone:** 505-470-3214    **Email** aoccaj@nmcourts.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
None	None	Rec.	General

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
Unknown	Unknown	Unknown	Rec.	General

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: HB 60 creates the following crimes:

- Fourth-degree felony crime of Criminal Desecration of a Dead Human Body, consisting of the unlawful dismemberment, disfigurement, mutilation or burning of a dead human body or any unlawful act that causes a dead human body to be devoured or scattered.
- Third-degree felony crime of Criminal Sexual Contact with a Dead Human Body, consisting of the unlawful and intentional touching of the clothed or unclothed intimate parts of a dead human body or intentionally causing a dead human body to touch the intimate parts of another person.
- Second-degree felony crime of Criminal Sexual Penetration of a Dead Human Body, consisting of the unlawful and intentional causing of a dead human body 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 a dead human body, whether or not there is any emission.

**FISCAL IMPLICATIONS**

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions, and appeals from convictions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

**SIGNIFICANT ISSUES**

- 1) Section 30-12-12 NMSA 1978 governs the fourth-degree felony crime of Disturbing a Marked Burial Ground, consisting of, in part, knowingly and willfully disturbing or removing the remains, or any part of them of any person interred in any church, churchyard, cemetery or marked burial ground. Other crimes with which a person can currently be charged with relating to abuse of a corpse of desecrating the dead are Tampering with Evidence, Section 30-22-5 NMSA 1978, and Defacing Tombs, Section 30-12-13 NMSA 1978.
- 2) Under Arizona statutes, Section 32-1364 A.R.S., the following are class 4 felony crimes against the dead:

A. It is unlawful for a person, without the authority of law or as normally required to store, prepare, disinfect or embalm a dead human body according to standards of practice in the funeral industry, to mutilate a dead human body.

B. It is unlawful for a person, without the authority of law, to disinter or remove a dead human body or any part of a dead human body from its sepulcher, grave or other interment site, or from the place where the body is awaiting disposition, with malice or wantonness or with the intent to sell or dissect the body.

C. It is unlawful for a person, without the authority of law, to obtain or convert property that is located with or affixed to a dead human body or any part of a dead human body with the intent to deprive the decedent or the decedent's estate of the property.

D. It is unlawful for a person to engage in necrophilia. A person engages in necrophilia by:

1. Having sexual intercourse with a dead human body.

2. Having sexual contact with a dead human body, other than the contact normally required to store, prepare, disinfect or embalm a dead human body according to standards of practice in the funeral industry.

In Arizona, felonies are classified as Class 1 through Class 6. Class 4 felonies carry a minimum sentence of one year in prison and a maximum sentence of 3 and a half years in prison.

- 3) KOB reports that New Mexico is one of 5 U.S. states without a law against necrophilia. See *State lawmaker proposes bill to outlaw necrophilia in New Mexico*, Griffin Rushton, January 2, 2024 at <https://www.kob.com/new-mexico/state-lawmaker-proposes-bill-to-outlaw-necrophilia-in-new-mexico/>. For additional historical information, see *Defiling the Dead: Necrophilia and the Law*, Ochoa and Jones, Santa Clara Law Digital Commons, Winter 1977 at <https://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1099&context=facpubs>.

### **PERFORMANCE IMPLICATIONS**

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

### **ADMINISTRATIVE IMPLICATIONS**

See “Fiscal Implications,” above.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None.

### **TECHNICAL ISSUES**

**OTHER SUBSTANTIVE ISSUES**

**ALTERNATIVES**

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

**AMENDMENTS**