

LFC Requester:	Scott Sanchez
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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 January 18, 2024
Bill No: HB 60

Sponsor: Lord
Short Title: Crime of Desecration of a Dead Human Body

Agency Name and Code NM Sentencing Commission (354)
Number: _____
Person Writing Douglas Carver
Phone: 505-239-8362 **Email** dhmcarver@unm.edu

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 60 creates the crimes of criminal desecration of a dead human body, a fourth degree felony; criminal sexual contact with a dead human body, a third degree felony; and criminal sexual penetration of a dead human body, a second degree felony.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

Most, though not all, states have some sort of statute criminalizing abuse of a corpse. See the list compiled in 2020 by the Legislative Council Staff of the Colorado General Assembly, available here: https://leg.colorado.gov/sites/default/files/abuse_of_corpse_crimes-interestedperson_0.pdf. What the statutes cover and the penalties attached vary widely.

The only statute New Mexico has that directly confronts this issue is in Article 12 of Chapter 24, which concerns the disposition of dead bodies. Section 24-12-3(B) of that Article states, “A person who unlawfully disposes of, uses or sells an unclaimed body is guilty of a fourth degree felony. . . .” Elements of HB 60 might be in conflict with this statute.

Additionally, the New Mexico Supreme Court in 2021 held that the criminal sexual penetration statutes would apply if the victim of csp was dead when the csp occurred. See *State v. Martinez*, 2021-NMSC-012. The Court’s reasoning was that the use of the term “person” in the statute was not limited to someone who was alive at the time the crime was committed against them. In that opinion, the Court also noted “At this time, New Mexico law does not prohibit the act of necrophilia or abuse of a corpse” (¶ 24), though the Court did not discuss Section 24-12-3(B) in its opinion. The Court’s reasoning in *State v. Martinez* could be extended to other crimes when a corpse is involved, especially the criminal sexual contact statutes, thus possibly obviating the need for HB 60, particularly the subsections involving criminal sexual contact with a dead

human body and criminal sexual penetration of a dead human body.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS