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FISCAL IMPACT REPORT

ORIGINAL DATE 01/30/12

SPONSOR Kernan **LAST UPDATED** _____ **HB** _____

ftyi

SHORT TITLE Sentencing Enhancement Based on Age Status **SB** 180

ANALYST Sánchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total			NFI	NFI	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Corrections Department (NMCD)

New Mexico Sentencing Commission (NMSC)

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

Senate Bill 180 proposes to enact a new section of the Criminal Sentencing Act to set forth procedures for the enhancement of a basic sentence when a person sixty years of age or older is intentionally injured in the commission of a noncapital felony. It also provides that any alteration of the basic sentence of imprisonment shall be served concurrently with any other enhancement of the basic sentence set forth in the Criminal Sentencing Act. Lastly, it amends the Hate Crimes Act to remove references to crimes based upon age from that act.

FISCAL IMPLICATIONS

The New Mexico Corrections Department (NMCD) reports that the bill would enhance the prison sentences of what is likely a relatively small number of offenders who commit felony crimes against and actually injure victims aged 60 years or older. This bill is not likely to impact very many NMCD prisoners, and is therefore not likely to increase the NMCD's population. Any such increases would likely be minimal.

According to the NMCD, the classification of an inmate determines his or her custody level, and the incarceration cost varies based on the custody level and particular facility. The cost to

incarcerate a male inmate ranges from an average of \$36,700 per year in a state owned/ operated prison to \$30,093 per year in a contract/private prison (where primarily only level III or medium custody inmates are housed). The cost to house a female inmate at a privately owned/operated facility is \$32,408 per year. Because the capacities of medium and higher custody state owned prisons are essentially at capacity, any net increase in inmate population will likely have to be housed at a contract/private facility.

According to the Administrative Office of the Courts (AOC), any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. 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

According to the New Mexico Sentencing Commission (NMSC), in 2003, Section 31-18-16.1 NMSA 1978 was repealed. That statute provided for enhancement of a basic sentence when a person sixty years of age or older or a handicapped person was intentionally injured in the commission of a noncapital felony. That same year, the Hate Crimes Act was enacted.

The NMCD states in its response that crimes against elderly or very young victims are far more likely to result in death, as these victims are often less capable of surviving any injuries suffered. This bill appears focused on attempting to deter the commission of such crimes against the elderly.

PERFORMANCE IMPLICATIONS

The AOC reports that 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

The bill is unlikely to have any fiscal, performance or administrative impact on NMCD.

ABS/lj