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FISCAL IMPACT REPORT

ORIGINAL DATE 2/19/15
 SPONSOR O'Neill LAST UPDATED 1/26/2015 HB _____
 SHORT TITLE Hate Crimes Against Homeless People SB 119aSPAC
 ANALYST Chenier

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Fiscal Implications	See Fiscal Implications	See Fiscal Implications	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

- LFC Files
- Responses Received From
- Administrative Office of the Courts (AOC)
- Administrative Office of the District Attorneys (AODA)
- New Mexico Sentencing Commission (NMSC)
- New Mexico Corrections Department (NMCD)

SUMMARY

Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment to SB119 affects only the title of Section 31-18B-3, shortening it to “Hate Crimes – Noncapital Felonies, Misdemeanors or Petty Misdemeanors- Alteration of Basic Sentence.” As currently written, the title describes the crimes as being committed because of the victim’s actual or perceived race, religion, color, national origin, ancestry, age, disability, gender, sexual orientation or gender identity. SB119a deletes the description of hate crime motivations from the title of the sentencing statute.

Synopsis of Bill

Senate Bill 119 amends the Hate Crimes Act (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 that list to “disability.” The effective date of the changes is July 1, 2015.

FISCAL IMPLICATIONS

NMCD stated that “it is difficult to assess the fiscal impact of this bill because NMCD has no knowledge of how many persons will be convicted of committing a hate crime against a homeless person. It is assumed that this number in New Mexico would be minimal or none, but the number is unknown at this point. 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 average cost to incarcerate an inmate is \$97.62 per day.

SIGNIFICANT ISSUES

As of 2012, Alaska; California; Florida; Maine; Maryland; Rhode Island; and Washington had enacted laws that consider homelessness as a factor that may motivate a person to attack a homeless person. Similar laws had also been enacted in Cleveland, Ohio; Los Angeles, California; Seattle, Washington; Puerto Rico; and Washington, D.C.

AODA stated that the consequences of adding “homelessness” to the list of hate crimes are:

- District attorneys will need to evaluate crimes to determine if the crime was motivated by the victim’s homeless status or perceived homeless status. If so, the district attorney will need to determine if the case should be prosecuted as a “hate crime,” which requires additional proof elements, and a separate finding of fact regarding the motivation for the crime;
- The basic sentence on a crime found to be motivated by the victim’s actual or perceived homelessness may be increased (Section 31-18B-3, NMSA 1978);
- District attorneys, as well as state, county and municipal law enforcement agencies will include such crimes in reports on hate crimes to the Federal Bureau of Investigation (Section 31-18B-4, NMSA 1978); and
- Law enforcement training on the detection, investigation and reporting of hate crimes will include crimes motivated by the victim’s actual or perceived homelessness (Section 31-18B-5, NMSA 1978).

AOC provided the following analysis:

Hate crimes against homeless people rose significantly in 2013, jumping nearly 25% over 2012 statistics, according to a new report from the National Coalition for the Homeless. Over the past 15 years, NCH found 1,437 violent hate crimes in total were committed against homeless people, including 375 victims who were murdered. Perpetrators tended to be males under 30 years old, with victims generally middle-aged men. The report identified 109 violent attacks committed against homeless people by non-homeless assailants in 2013, 18 of which were lethal. “These crimes are believed to have been motivated by the perpetrators’ biases against homeless individuals or by their ability to target homeless people with relative ease,” NCH writes. By comparison, there were 88 attacks in all in 2012, including 18 deaths.

From 1999-2010, one thousand, one hundred eighty-four (1,184) acts of bias motivated violence against the homeless were reported, and 312 individuals lost their lives as a result of the attacks. Perpetrators of the attacks tend to be young men and teenage boys. In 2010, 72 percent of hate crimes against the homeless were committed by males under the age of 30, and nearly 50 percent were under the age of 20. Eight hate crimes against the homeless were reported in New Mexico.