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FISCAL IMPACT REPORT

ORIGINAL DATE 2/18/19

SPONSOR SJC LAST UPDATED _____ HB _____

SHORT TITLE No Limitation for Crimes Against Children SB 55/SJCS

ANALYST Torres

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY19 | FY20 | FY21 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------------------------|------|------|-------------------------|---------------------------|---------------|
| Total | See fiscal implications | | | See fiscal implications | Recurring | General Fund |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Children, Youth and Families Department (CYFD)
 Metropolitan Court
 New Mexico Attorney General (NMAG)
 New Mexico Sentencing Commission (NMSC)
 Administrative Office of the Courts (AOC)
 Administrative Office of the District Attorneys (AODA)
 Public Defender Department (PDD)
 New Mexico Corrections Department (NMCD)

Responses Not Received From

Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

The Senate Judiciary Committee Substitute for Senate Bill 55 changes the statutes of limitations for several specific offenses against children (victims under age 18). Statutes of limitation establish deadlines for prosecution of offenses; prosecutions not commenced by the deadline are barred.

Section 1 of committee substitute for SB55 provides that prosecutions for sexual exploitation of a child (30-6A-3 NMSA 1978), sexual exploitation of a child by prostitution (30-6A-4 NMSA 1978), criminal sexual penetration of a minor (30-9-11 NMSA 1978), or criminal sexual contact

with a minor (30-9-13 NMSA 1978) may commence at any time after the specified crime occurs and are barred after the alleged victim reaches age 35.

Section 2 of committee substitute for SB55 establishes that statutes of limitation (30-1-8 NMSA 1978) for prosecutions of different types of child abandonment or abuse (NMSA 30-6-1) begin to run when the alleged victim reaches age 18 or the alleged violation is first reported to a law enforcement agency, whichever occurs first. New Mexico law 30-1-8 NMSA 1978 specifies different statutes of limitations corresponding to particular types of child abandonment or abuse defined in 30-6-1 NMSA 1978.

FISCAL IMPLICATIONS

The Administrative Office of the Courts notes that extending the statutes of limitation to the specified crimes may increase court, prosecutor and defense caseloads, the demand for crimes against children investigators, victim advocates, and administrative support to prosecute these cases.

Furthermore, the Administrative Office of the District Attorneys (AODA) adds that extending “the statute of limitations for the prosecution of crimes against children will be costly to the public safety departments and district attorney’s office that are referred these investigations. District Attorney’s or public safety departments are required to review investigative files and meet with victims to find evidence to support a crime or testimony of a victim which can be lengthy.”

NMCD reports that the fiscal impact of this bill on the department is unknown, but the bill will result in a minimal to moderate number of new felony convictions due to the lengthened statute of limitations for these crimes. Depending on the classification and number of incarcerated individuals as a result of this bill, the bill will have largely varying costs on NMCD. Additionally, the cost per client in Probation and Parole for a standard supervision program is \$2,882 per year. The cost per client in Intensive Supervision programs is \$1,293 per year. The cost per client in Community Corrections is \$10,124 per year. The cost per client per year for female residential Community Corrections programs is \$23,972 and for males is \$23,497. Offenders placed on probation for the crimes covered by this bill seem likely to be immediately or eventually placed on standard supervision.

Given the Senate Judiciary Committee substitute’s statute of limitations, the substitute is likely to have a minimal to moderately less significant impact on operational costs than the original bill.

SIGNIFICANT ISSUES

Section 1 of the committee substitute for SB55 replaces the tiered statutes of limitation set out in 30-1-8 NMSA 1978 with a single deadline for prosecuting the crimes of sexual exploitation of a child, sexual exploitation of a child by prostitution, criminal sexual penetration of a minor, and criminal sexual contact with a minor. Current law establishes different statutes of limitation depending on the factual circumstances of the victim, the offender, and the nature of the offense. If enacted, the bill would permit prosecution of these specified crimes, regardless of the victim’s or offender’s circumstances or specific nature of the offense, at any time after commission of the alleged offense until the alleged victim turns 35.

The committee substitute for SB55 does not contain a requirement that the prosecution act diligently in bringing charges against a defendant for those crimes for which there is no statute of limitations. The general purpose of statutes of limitation is to make sure that convictions are based on evidence that has not deteriorated with time. Convictions based on stale or now unavailable testimonial evidence may be challenged as in violation of the Confrontation Clause of the Sixth Amendment to the U.S. Constitution and Section 14 of the New Mexico Constitution.

PERFORMANCE IMPLICATIONS

SB55 may impact the performance of law enforcement, prosecutors, public defenders, courts, and corrections as workloads may increase.

OTHER SUBSTANTIVE ISSUES

AOC has identified the following other substantive issues:

Statutes of limitation in criminal law require prosecutions be commenced within a specified number of years. Prosecutions not begun before the deadlines established by the statutes of limitations are generally forever barred. Their primary purposes are two-fold: 1) to ensure that evidence, especially oral testimony based on memory, of the alleged crime is as fresh as possible; and 2) to provide a measure of assurance to law enforcement, the courts, and the parties to the alleged crime that prosecutions will be commenced, and convictions secured, on the basis of evidence that a finder of fact (particularly a jury) can credit as reliable because reasonably contemporaneous.

Extending statutes of limitation, as a general policy matter, signals that the Legislature considers specified types of crimes so serious that they should be able to be prosecuted for a longer period of time after an alleged victim contacts law enforcement or law enforcement develops evidence of a crime having been committed. As a specific policy matter, extending statutes of limitations covering crimes against children also signals the Legislature's conclusion that these crimes are so difficult to report or to prosecute relatively soon after the alleged offense that extra time should be permitted for victims to seek redress from the courts.

IT/al/sb