

LFC Requester:

Scott Sanchez

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

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 X **Amendment** _____
Correction _____ **Substitute** _____

Date Prepared: 1/18/2024

Bill No: HB 60

Sponsor: Stefani Lord
 John Block

Agency Name and 305 – New Mexico
Code Number: Department of Justice

Person Writing
Analysis: Peter Valencia

Short Crime of Desecration of a
Title: Dead Human Body

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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

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

HB 60 proposes a new statute to criminalize various acts violating human remains. The bill would create a fourth degree felony penalty for unlawfully damaging human remains. HB 60 would create a third degree felony for any unlawful sexual contact with a dead human body, and a second degree felony for criminal sexual penetration of a dead human body.

FISCAL IMPLICATIONS

None to this office.

SIGNIFICANT ISSUES

The language and legislative intent for the crime of criminal desecration may conflict with NMRA Uniform Jury Instruction 14-132, the uniform jury instruction that outlines unlawfulness as an element. The element of unlawfulness is necessary to avoid various lawful acts described within the language of the bill, however the applicable unlawfulness UJI may limit the scope of the crime. The first use note of this UJI states “[t]his instruction is intended to aid the court and the parties in preparing an instruction when the statutory definition of the offense includes the term “unlawful” and an issue is raised as to the lawfulness of the defendant's act.” However, the UJI use note also states “[t]his instruction is not intended to be all inclusive. Appropriate language should be tailored in specific cases”

The actual language for the jury instruction for unlawfulness states “[f]or the act to have been unlawful it must have been done . . . with the intent to arouse or gratify sexual desire or to intrude upon the bodily integrity or personal safety of (name of victim) or (other unlawful purpose).” Therefore, an intentional desecration of a dead human body may not meet the requirements of UJI 14-132 unless it was for a sexual act or for some other lawful purpose.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None noted.

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

None

ALTERNATIVES

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

None