

LFC Requester:

Scott Sanchez

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2/20/2025

Check all that apply:

Bill Number: SB155

Original

Correction

Amendment X

Substitute

Sponsor: Sen. Antonio Maestas

Agency Name and 305 – New Mexico

Code Number: Department of Justice

Person Writing

Analysis: Eric Orona, ASG

Short Determination of

Title: Embezzlement Penalty

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|------------------------------|------------------|
| FY25 | FY26 | | |
| | | | |
| | | | |

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------------|------------------|
| FY25 | FY26 | FY27 | | |
| | | | | |
| | | | | |

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY25 | FY26 | FY27 | 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:

Senate Bill ("SB") 155 proposes to amend the embezzlement penalties in NMSA 1978, Section 30-16-8 (entitled "Embezzlement") by adding the phrase "in any consecutive twelve-month period" to each penalty provision. This amendment changes how multiple acts of embezzlement are treated.

Instead of treating each act of embezzlement as a separate crime, the bill appears to require that all embezzlement acts committed within a twelve-month period be aggregated into a single offense. The severity of the charge would be determined by the total value of all property embezzled during this time, ranging from a petty misdemeanor for amounts of \$250 or less to a second-degree felony for amounts exceeding \$20,000.

Amendment:

The amendment adds "against any one victim" to each penalty provision, which would aggregate the embezzlement amounts only when they involve the same victim within a twelve-month period. This change would permit separate prosecutions for multiple victims within the same twelve-month period.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

SB155 could create double jeopardy issues that prevent prosecution of subsequently discovered crimes involving the same victim. For example, if a defendant is convicted of a fourth-degree felony for embezzling in two instances, each valued at \$1,200 (against the same victim), and it is later discovered that another act of embezzlement took place valued at \$150 (against the same victim) between the two other instances, prosecutors would likely be barred from pursuing new charges. The newly discovered crime would be statutorily defined by this bill as being part of the same offense as the other acts of embezzlement involving the same victim. In that situation, the defendant would wholly escape liability for the subsequently discovered act. The newly

discovered act would not have been used to enhance the penalty to a third-degree felony in the first instance and could be barred as a successive prosecution for the same offense after the initial conviction.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A