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FISCAL IMPACT REPORT

SPONSOR Cheney DATE TYPED 2/5/04 HB 453

SHORT TITLE Revise Criminal Sexual Contact of a Minor SB _____

ANALYST Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
			See Narrative	Recurring	General Fund

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)
 Sentencing Commission (SC)
 Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

House Bill 453 amends NMSA 1978 Section 30-9-13 by eliminating the crimes of criminal sexual contact of a minor (CSCM) in the third and fourth degrees, which are presently third and fourth degree felonies, and making all CSCM offenses a second degree felony. The distinction for CSCM when the child's intimate parts are unclothed (presently a second-degree felony) or clothed (now a third-degree felony) is eliminated. This bill also dispenses with distinctions based on the circumstances and relationships under which force or coercion are used to commit the crime. Conviction of the CSCM contact in the second degree is a second degree felony with a mandatory minimum sentence of three years imprisonment.

The definition of CSCM in the second degree is amended to include all criminal sexual contact of a minor perpetrated:

- on a child under 13, or
- on a child 13 to 18 when the perpetrator used force or coercion, or
- on a child 13 to 18, by a person affiliated with a school who learned of the child while performing services in or for that school.

Significant Issues

Consolidating all charges based on this type of conduct to a second degree felony with a three year mandatory minimum makes this a more serious offense with more severe punishment. These charges may demand more judicial time because the cases are more complex, more hearings are possible, pleas may be more difficult to negotiate, and resolution by trial, not plea, is more probable. These cases may require additional judicial and staff time and may require additional resources to handle the increased workload. Time to resolution for these cases may be longer than average.

The SC strongly urges the legislature to defer passing laws dealing with sex offenses at this time so that the newly created Sex Offender Management Board can perform its duties and study and evaluate issues such as those presented in this bill.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution, and documentation of statutory changes. 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.

ADMINISTRATIVE IMPLICATIONS

There is an administrative impact on the court resulting from added judicial time needed to dispose of the type of cases in this bill. There will be a minimal administrative cost for statewide update, distribution, and documentation of statutory changes. 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.

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