

A MEMORIAL

REQUESTING THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE TO STUDY WHETHER TO PROPOSE INCLUDING A "VULNERABLE VICTIM" AGGRAVATOR IN NEW MEXICO LAW FOR CRIMES AGAINST CERTAIN PERSONS.

WHEREAS, the law often focuses on the particular qualities of a criminal act to determine the need for punishment, deterrence, a second chance or forgiveness; and

WHEREAS, the characteristics of the victim are also important in the equation of society's response to a crime; and

WHEREAS, some persons may be more vulnerable to crime than others, and some criminals are more likely to target such potential victims precisely because they are easy prey; and

WHEREAS, the federal sentencing guidelines include the category "vulnerable victim" to describe these victims; and

WHEREAS, federal guidelines require that a crime against a vulnerable victim include a finding that the perpetrator knew or should have known that a particular individual was particularly susceptible to the crime; and

WHEREAS, elderly or young persons can be particularly categorized as vulnerable victims in some cases; and

WHEREAS, it is questionable whether persons with developmental disabilities can be fairly included as

vulnerable victims for purposes of sentencing a person alleged to have committed a crime; and

WHEREAS, other recognized vulnerable victims have been children who are approached via the internet by an adult masquerading as a peer; have been terminally ill cancer patients defrauded by a known false cure; and have been undocumented persons who are defrauded by someone who can threaten deportation; and

WHEREAS, sometimes the criminal charged with preying on a vulnerable victim is sentenced to a more severe sentence for focusing on a vulnerable victim; and

WHEREAS, another process that takes into account the status of a vulnerable victim involves getting court support for a vulnerable victim who must testify;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NEW MEXICO that the interim courts, corrections and justice committee or another interim committee be requested to take testimony on the issue of defining "vulnerable victim" in the New Mexico statutes, on court supports available for such victims and on the consequences of adding an aggravator for those who prey on vulnerable victims; and

BE IT FURTHER RESOLVED that the committee study the problem and submit recommendations for inclusion on the agenda for the second session of the forty-ninth legislature in

January 2010; and

BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the co-chairs of the interim legislative courts, corrections and justice committee, the co-chairs of New Mexico legislative council, the attorney general and the chief public defender.