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FISCAL IMPACT REPORT

SPONSOR Park/Curtis **ORIGINAL DATE** _____
LAST UPDATED 01/31/12 **HB** 214

SHORT TITLE Sex Offense Damage Commencement **SB** _____

ANALYST Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0.0	Indeterminate*	Indeterminate*	Indeterminate*	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

*See Financial Implications.

Duplicates SB 118.

Relates to SB 155/HB 215.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
Attorney General's Office (AGO)
New Mexico Corrections Department (NMCD)
Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

House Bill 118 would extend the time (statute of limitations) in which a civil action for damages based on personal injury caused by childhood sexual abuse can be commenced from the twenty-fourth to the fiftieth birthday of the victim.

The effective date of this bill is July 1, 2012.

FISCAL IMPLICATIONS

As this bill extends the statute of limitations for these types of cases by 26 years, the number of these types of cases being filed would likely increase and cause a fiscal impact on the courts. However, given the length of the extension, additional cases may not all be filed in any one year;

if the filings are spread out over time, they would not result in a significant impact. As a result, the fiscal impact on the judiciary is indeterminate.

SIGNIFICANT ISSUES

This bill, by extending the period of time in which civil lawsuits for damages for injury caused by childhood sexual abuse by 26 years, would afford more victims opportunity to seek readdress for abuse they suffered as children. The AGO advises that this change is consistent with a recent New Mexico Supreme Court decision (State v. Morales, 2010 NMSC 26, 148 N.M. 305, 236 P.2d 211) construing the statute of limitations in a criminal prosecution for child abuse.

The AGO also points out that the existing subsection (B) of the same section being amended in this bill, which defines the term “childhood sexual abuse”, does not include attempts to commit any of the listed crimes, and thus the expanded statute of limitations contained in the proposed amendment to subsection (A) would not apply to cases based on attempts to commit childhood sexual abuse.

Additionally, as the AOC notes existing law provides an alternate statute of limitations if the person did not know or have reason to know of childhood sexual abuse or injury arising from that abuse within the limitations period set out in subsection(A). In such a case, once the victim gains that knowledge, or has reason to know, he or she must file suit within three years.

RELATIONSHIP

The AOC advises that this bill relates to HB 215 (and its duplicate SB 155), which increases the age from 18 to 50 as the starting point for calculating the time period for commencement of a criminal prosecution for alleged violations of criminal statutes prohibiting abandonment or abuse of a child (section 3-6-1, NMSA 1978), criminal sexual penetration (section 30-9-11, NMSA 1978), or criminal sexual contact of a child (section 30-9-13, NMSA 1978). SB 155 retains the alternate trigger contained in current law which starts the time for prosecution when a violation is reported to law enforcement.

TECHNICAL ISSUES

The AGO suggests that subsection (B) of section 37-1-30 be amended, as well, to include an explicit reference to the Sexual Exploitation of Children Act, sections 30-6A-1 through 4, NMSA 1978.

MD/lj