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FISCAL IMPACT REPORT

ORIGINAL DATE 01/24/13
 SPONSOR O'Neill LAST UPDATED 02/12/13 HB _____
 SHORT TITLE Add Homelessness to Hate Crimes SB 124/aSPAC
 ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	TBD	\$31.7 - \$317.0	\$31.7 - \$317.0	\$63.4 - \$634.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC FILES

Responses Received From

Administrative Office of the Courts (AOC)
 New Mexico Corrections Department (NMCD)
 Department of Public Safety (DPS)
 Public Defender Department (PDD)
 Administrative Office of the District Attorneys (AODA)

SUMMARY

Synopsis of SPAC Amendment

The SPAC amendment would leave intact language pertaining to sexual orientation which clarifies that sexual orientation may be “actual or perceived”.

Synopsis of Original Bill

Senate Bill 124 would add a new subsection to the Definitions in the Hate Crimes Act in Sec. 18B of the Criminal Code to include homelessness, which is defined to mean that a person lacks a fixed, regular and adequate nighttime residence or has a primary nighttime residence that is:

- (1) A place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including cars, parks, public spaces, abandoned buildings or bus or train stations, or
- (2) A publicly or privately operated shelter designed to provide temporary living accommodations, including congregate shelters and transitional housing

The bill also inserts homelessness into the definition of “motivated by hate” and provides a technical clean-up striking the words “handicapped status” and inserting the word “disability”.

Finally, for the definition of “sexual orientation”, SB 124 would strike the words “whether actual or perceived”. Effective date is July 1, 2013.

FISCAL IMPLICATIONS

The range in the above table is based on one to 10 inmates incarcerated in private prison facilities as a result of the passage of this legislation.

SIGNIFICANT ISSUES

In 2011, New Mexico recorded 28 hate crimes, with 10 showing bias against race, 9 sexual orientation, 6 ethnicity, and 3 religion. (FBI’s Uniform Crime Reports).

From 1999-2010, one thousand, one hundred eighty-four (1,184) acts of bias motivated violence against the homeless were reported, and 312 individuals lost their lives as a result of the attacks. Perpetrators of the attacks tend to be young men and teenage boys. In 2010, 72 percent of hate crimes against the homeless were committed by males under the age of 30, and nearly 50 percent were under the age of 20. Eight hate crimes against the homeless were reported in New Mexico. (*Hate Crimes Against the Homeless: Violence Hidden in Plain View*, report of the National Coalition for the Homeless in January, 2012)

The NMSC notes that forty-five states and the District of Columbia have various types of hate crime acts. Three states and the District of Columbia have hate crime acts that address crimes against homeless persons.

The PDD and AODA have stated that there is a possibility that the increase in penalty will result in more defendants choosing to go to trial rather than accept a plea bargain.

NCJ/svb/blm