

LFC Requester:	
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**AGENCY BILL ANALYSIS
2017 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

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

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date 1-25-17
Bill No: SB159

Sponsor: Candace Gould
Short Title: Increase Crimes Against Children Penalties

Agency Code: 264
Person Writing: Gail MacQuesten
Phone: 466-0532 **Email:** gailmacquesten@gmail.com

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
0	0	n/a	n/a

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
0	0	0	n/a	n/a

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Minimal	Minimal	Minimal	Minimal	Recurring	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB45
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB159 increases the penalties that apply to intentional abuse of a child that does not result in the child’s death.

Currently, NMSA 1978, Section 30-6-1, Abandonment of Abuse of a Child, imposes the following penalties for abuse that does not result in the death of a child: if the abuse results in great bodily harm, the crime is a first degree felony; if the abuse does not result in great bodily harm, the crime is a third degree felony for a first offense, and a second degree felony for a second or subsequent offense.

SB159 keeps the penalties described above for negligent abuse of a child, but increases the penalties if the abuse is intentional: intentional abuse that results in great bodily harm is a first degree felony; intentional abuse that does not result in great bodily harm is a second degree felony for a first offense and a first degree felony for a second or subsequent offense.

(The penalty provisions for intentional and negligent abuse that results in the death of the child remain unchanged.)

SB159 also changes “hospital” to “safe haven site” in the provision stating that a person who leaves an infant no more than ninety days old at such a site may be prosecuted for abuse of the infant for actions of the person occurring before the infant was left at the site.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SB159 increases the penalties for intentional abuse of a child. It is difficult to predict whether this will mean an increase in plea bargains, or an increase in cases going to trial. If it results in an increase in cases going to trial, costs will increase for the district attorneys, public defenders and courts. If increased penalties are imposed, costs will increase for the corrections department.

SIGNIFICANT ISSUES

SB159 distinguishes between negligent and intentional abuse of a child, increasing the penalties for intentional abuse of a child that does not result in the child's death. Intentional abuse that results in great bodily harm is a first degree felony – making it equivalent to intentional abuse resulting in the death of a child if the child is twelve to eighteen. A second or subsequent offense of intentional abuse of a child is also a first degree felony.

SB159's use of the term "safe haven site" brings the statute into conformance with the language used in the Safe Haven for Infants Act, which defines "safe haven" as a hospital, law enforcement agency or fire station that has staff on-site at the time an infant is left at the site. NMSA 1978, Section 24-22-2(F).

PERFORMANCE IMPLICATIONS

See Significant Issues, above.

ADMINISTRATIVE IMPLICATIONS

None noted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB45 also amends Section 30-6-1. It increases the penalty for intentional abuse of a child twelve to eighteen years of age that results in the death of the child to a first degree felony resulting in the death of a child. It removes the distinction in the existing statute based on age: the crime is a "first degree felony" (which carries a basic sentence of 18 years) if the child is twelve to eighteen years of age, but a "first degree felony resulting in the death of a child" (which carries a basic sentence of life) if the child is less than twelve.

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

None proposed.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Negligent and intentional abuse of a child that does not result in the death of the child will carry the same penalties.

AMENDMENTS

None proposed.