

LFC Requester:	
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**AGENCY BILL ANALYSIS
2015 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: Date 2-4-16
Original **Amendment** **Bill No:** SB84A
Correction **Substitute**

Sponsor: Linda M. Lopez **Agency Code:** 264
Short Title: Family Violence Act Extended Protection Order **Person Writing:** Gail MacQuesten
Title: Protection Order **Phone:** 466-0532 **Emai:** gailmacquesten@q.com

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		
0	0	n/a	n/a

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		
0	0	0	n/a	n/a

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	0	minimal	minimal	minimal	recurring	General fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: HB27

Duplicates/Relates to Appropriation in the General Appropriation Act n/a

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB84 creates a new section of the Family Violence Protection Act (NMSA 1978, Section 40-13-1 *et seq.*) providing for the issuance of extended orders of protection in criminal sexual penetration cases.

Senate floor amendment 1 to SB84 adds language to the sentence describing the evidence a victim may submit to show cause for granting an order of protection. The original bill stated that the victim may “submit evidence of the person’s conviction for criminal sexual penetration as cause...” The amendment provides that the victim may submit evidence of the person’s conviction for criminal sexual penetration, including out-of-state, as cause....”

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.

SB84A will result in increased costs to the district attorneys, in an unknown amount. District attorneys will be seeking orders pursuant to Subsection A of SB84. It is not clear whether district attorneys will be involved in petitions filed by the victim under Subsection B. District attorneys enforce violations of orders issued under the Family Violence Protection Act (a violation is a misdemeanor). To the extent the provisions in SB84 are litigated, the district attorneys will incur additional expenses.

SIGNIFICANT ISSUES

It is unclear why the amendment allows proof of an out-of-state conviction to support issuance of an order of protection. SB84 only applies in a sentencing proceeding for a person convicted of criminal sexual penetration under New Mexico’s statutes. (See Subsection A.) At that sentencing proceeding, the prosecutor may request an order of protection that will remain in force for the duration of the court’s jurisdiction over the person. Then, after the expiration of the court’s jurisdiction over the person against whom an order was granted, the victim may file a petition for the order. (See Subsection B.) The entire structure of SB84 is tied to a New Mexico conviction and sentencing proceeding. Only if the defendant has been convicted under New

Mexico law, and only if the prosecutor has obtained an order at time of sentencing, may a victim later seek an order of protection.

If the intent of the legislation is to allow a victim to file a petition for protection after any conviction for criminal sexual penetration, whether or not the prosecutor has first obtained an order under Subsection A of the bill, that should be made clear.

PERFORMANCE IMPLICATIONS

See Significant Issues, above.

ADMINISTRATIVE IMPLICATIONS

See Significant Issues, above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB84 is the Senate version of HB27.

TECHNICAL ISSUES

See Significant Issues, above.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Family Violence Protection Act will not provide for the issuance of an extended order of protection against a person convicted of criminal sexual penetration.

AMENDMENTS

None proposed.