

LFC Requester:	Jorgensen, Connor
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**AGENCY BILL ANALYSIS
2014 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 X **Amendment**
Correction **Substitute**

Date January 30, 2014
Bill No: HB171-305 Jan 30

Sponsor: Alonzo Baldonado
Short Termination of Parental Rights
Title: after Child results from CSP

Reviewing Attorney General's Office
Person Writing Shannon Murdock
Phone: 222-9073 **Email** smurdock@nmag.gov

SECTION II: FISCAL IMPACT **FOR LFC OFFICIAL PURPOSES******
AGO STAFF SHOULD LEAVE SHADED AREAS BLANK

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY14	FY15		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: N/A

Duplicates/Relates to Appropriation in the General Appropriation Act

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY14	FY15	FY16		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Opinion Letter. This is a staff analysis in response to the agency’s, committee’s or legislator’s request.

BILL SUMMARY

Summary Synopsis:

This Bill introduces a possible new law that would terminate or permanently suspend parental rights of the sex offender if a child is conceived out of a criminal sexual penetration. The court will be required to conduct a hearing to determine if the child is in fact a result of a criminal sexual penetration and then determine if termination or permanent suspension of legal and physical custody and visitation rights is appropriate. The victim of the criminal sexual penetration must file within 6 years. The Bill sets out the guidelines of what is necessary in filing the termination of parental rights. The Bill takes into account the federal Indian Child Welfare act and gives guidelines encompassing that law. The Bill allows for the court to appoint a CYFD attorney to represent either party in court proceedings if found indigent. The standard is set forth for determining termination for both a child who is not subject to the federal Indian Child Welfare act and a child who is subject to it. The Bill allows for permanently suspending of rights but still allows the victim or child to seek child support from respondent or inheritance from respondent. If rights are terminated, no child support shall be sought.

Any statements made during the proceedings of this type of case cannot be used in other court proceedings. All records will be sealed except to the parties involved or by court order. If anyone releases the information they are guilty of a petty misdemeanor.

Further this Bill adds a paragraph to Section 32A-5-19 to include the biological parent convicted of rape or criminal sexual penetration or where that parents rights have been terminated or permanently suspended pursuant to this act to not be required to get consent or a relinquishment prior to an adoption of the child. Effective date would be July 1, 2014.

FISCAL IMPLICATIONS WITH ENACTING THIS BILL

Additional work and expense for CYFD attorneys to represent indigent parties. Additional cost for additional hearings to determine if a criminal sexual penetration occurred and whether to terminate rights.

SIGNIFICANT LEGAL ISSUES

Possible conflict for CYFD if they have to represent the respondent given the physical, mental and emotional welfare of the child.

PERFORMANCE IMPLICATIONS WITH ENACTING THIS BILL

See above

ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL

None

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS INTRODUCED THIS SESSION

N/A

TECHNICAL ISSUES OR DRAFTING ERROR

See below under Amendments needed to Improve this Bill

OTHER SUBSTANTIVE LEGAL ISSUES

See above

ALTERNATIVES TO ENACTING THIS BILL

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS NEEDED TO IMPROVE THIS BILL

While it is highly unlikely that a woman should be the perpetrator of criminal sexual penetration, it is not out of the realm of possibilities and should be equally applied to both genders in the event this did happen.

The Bill does not take into consideration a John Doe that may be later identified by DNA analysis after the six year mark.