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| LFC Requester: | Eric Cheiner |
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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:

| | | | | | |
|-------------------|--------------------------|-------------------|-------------------------------------|-----------------|----------------|
| Original | <input type="checkbox"/> | Amendment | <input checked="" type="checkbox"/> | Date | <u>2/20/15</u> |
| Correction | <input type="checkbox"/> | Substitute | <input type="checkbox"/> | Bill No: | <u>HB 207a</u> |

| | | | |
|-----------------|--|-----------------------|---|
| Sponsor: | <u>Representatives Pacheco & Rue</u> | Agency Code: | <u>Attorney General's Office</u> |
| Short | <u>Enticement of a child penalties</u> | Person Writing | <u>Clara M. Moran, AAG</u> |
| Title: | <u></u> | Phone: | <u>222-9027</u> |
| | | Email | <u>cmoran@nmag.gov</u> |

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|------------------------------|------------------|
| FY15 | FY16 | | |
| | | | |
| | | | |

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------------|------------------|
| FY15 | FY16 | FY17 | | |
| | | | | |
| | | | | |

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY15 | FY16 | FY17 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------------|-------------|-------------|------------------------------|--------------------------------------|--------------------------|
| Total | | | | | | |

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

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

BILL SUMMARY

Synopsis:

House Bill 207 makes numbering modifications under 30-9-1 (A) changing the subsections from the duplicative “A” and “B” structure to logical subsections (1) and (2). The use “Criminal Code” is deleted to make the subsections cite directly to the statutory reference Chapter 30, Article 9 of NMSA 1978 under both subsections.

The significant change to 30-9-1 is in the penalties section, changing enticement of a child from a misdemeanor to a fourth degree felony if the child is 13, 14, or 15, and a third degree felony if the child is less than 13 years of age.

FISCAL IMPLICATIONS

N/A

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.

SIGNIFICANT ISSUES

N/A the bill increases penalties to be more commensurate with the conduct when read in union with other attempt crimes committed against children specific to the listed age categories.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 101 increases penalties for Sexual Exploitation by Prostitution – the age category language may be reviewed for uniformity.

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

Enticement of a Child as listed under 29-11A-5 currently requires a defendant convicted of the crime to register for 10 years as a sex offender. HB 207 increases the penalties for Enticement of a Child but does not increase the period of registration from 10 years to lifetime registration. Attempt to commit criminal sexual penetration in the first or second degree; criminal sexual contact in the second, third or fourth degree; kidnapping in the first degree; and criminal sexual contact in the fourth degree; if charged as attempt under 30-28-1 would result in lifetime registration under 29-11A-5(D) (6), whereas enticement of a child to commit an act which would constitute a crime under Article 9 of the Criminal Code would only cause an offender to be subject to 10 year sex offender registration period.

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

AMENDMENTS

On February 17, 2015 the Safety and Civil Affairs Committee amended the bill making changes to the text of 30-9-1(B) so that it would read “a child 13 to 16” from the previous text “a child at least 13 but under 16.” This amendment is consistent with language in other parts of the criminal code.

The amendment also adds language to 30-9-1(B)(2) that to be charged with Enticement of a Child as a 4th degree felony when the child is 13 to 16 years of age, the statute is only triggered “when the perpetrator is at least eighteen years of age and is at least four years older than the child and not the spouse of the child.” This language tracks the language of Criminal Sexual Penetration in the 4th Degree, 30-9-11(G).