

LFC Requester:	Eric Chenier
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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 checked="" type="checkbox"/>	Amendment	<input type="checkbox"/>	Date	<u>January 30, 2015</u>
Correction	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Bill No:	<u>SB 363</u>

Sponsor:	<u>Senator Lisa A. Torracco</u>	Agency Code:	<u>Attorney General's Office</u>
Short	<u>Expectant & Postpartum</u>	Person Writing	<u>Margaret McLean, AAG</u>
Title:	<u>Prisoners Act</u>	Phone:	<u>827-6929</u>
		Email	<u>mmclean@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: SB 363 proposes a new statute regarding incarcerated women who are either pregnant or nursing. The bill seeks to accommodate women by providing for release or furlough. Another provision mandates the administrators at the Corrections Department and the state’s jails to develop policies regarding lactating women to maintain a breast milk supply; provide for sanitary storage of breast milk; and allow for breastfeeding.

FISCAL IMPLICATIONS

None.

SIGNIFICANT ISSUES

The Corrections Department is charged with the management of all inmates and providing all medical and health services. Each detention center is also charged with medical and health services for the population. One interpretation of the proposal is a modification of this authority of any correctional facility.

A second interpretation is the release of women who are pregnant or lactating--by allowing for the least restrictive condition—changes the terms and conditions of the judgment and sentence or the pretrial order. For example, Rule 5-401(C) NMRA addresses the factors to be considered in determining conditions of release. One factor is the “person’s character and physical and medical condition.” Rule 5-401(C)(3)(a). At the time of the entry of a judgment and sentence, the condition of the woman may be considered. Women are detained in facilities designated for housing women; this circumstance necessarily includes the services required for a pregnant or lactating woman.

“Good cause” is not defined for keeping a woman in a correctional setting.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 363 may conflict with the policies promulgated by the New Mexico Corrections Department. It is unknown whether CYFD has any policy regarding a child born to an incarcerated mother.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo. All detention facilities will be governed by policies and procedures regarding any woman who is pregnant or breastfeeding.

AMENDMENTS

None.

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