

<b>LFC Requester:</b>	
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**AGENCY BILL ANALYSIS  
2018 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

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*and*

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*{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** Jan. 20, 2018  
**Bill No:** HB100

**Sponsor:** Sarah Maestas Barnes  
**Short Title:** Child Abuse Penalties

**Agency Code:** 264  
**Person Writing** Gail MacQuesten  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY18	FY19		
0	0	n/a	n/a

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY18	FY19	FY20		
0	0	0	n/a	n/a

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY18</b>	<b>FY19</b>	<b>FY20</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	0	minimal	minimal	minimal	recurring	general

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: SB96  
Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

HB100 amends NMSA 1978, Section 30-6-1, Abandonment or Abuse of a Child.

HB100 raises the penalty for the crime of intentional abuse of a child that results in the death of the child when the child is twelve to eighteen years of age, removing the age distinction in the current statute. The offense will be a “first degree felony resulting in the death of a child,” with a basic sentence of life imprisonment, regardless of the age of the child. (Currently, if the child is twelve to eighteen years of age, the crime is a “first degree felony,” which carries a basic sentence of eighteen years.)

HB100 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. This brings the language into conformity with the Safe Haven for Infants Act.

**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.

Fiscal implications for the district attorneys are unknown. Higher potential penalties may result in more cases going to trial, or may result in more plea agreements.

To the extent HB100 results in increased incarceration, there will be increased costs to the state.

**SIGNIFICANT ISSUES**

HB100 increases the basic sentence for the crime of intentional abuse of a child twelve to eighteen years of age that results in the death of the child from a “first degree felony,” which carries a basic sentence of eighteen years, to a “first degree felony resulting in the death of a child,” which carries a basic sentence of life imprisonment.

As currently written, the statute provides different basic sentences for the offense based on the

age of the victim. If the child is less than twelve, the crime is a “first degree felony resulting in the death of a child,” and the basic sentence is life imprisonment. But if the victim is twelve to eighteen years of age, the crime is a “first degree felony,” and the basic sentence is eighteen years.

HB100’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**

As discussed above, increasing the penalty for the offense may result in more cases going to trial, or may result in more cases being resolved by plea bargains.

## **ADMINISTRATIVE IMPLICATIONS**

See “Performance Implications,” above.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

SB96 also amends Section 30-6-1 to remove the age distinction in the provision defining intentional abuse of a child that results in the death of the child, and to use the term “safe haven site,” but also makes additional changes to that statute and to other statutes defining crimes against children.

## **TECHNICAL ISSUES**

None noted.

## **OTHER SUBSTANTIVE ISSUES**

None noted.

## **ALTERNATIVES**

None proposed.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

New Mexico will continue to punish intentional abuse of a child that results in the death of that child more severely if the child is under twelve.

## **AMENDMENTS**

None proposed.