

LFC Requester:	Kelly Klundt
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**AGENCY BILL ANALYSIS
2016 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 01/21/2016
Original Amendment Bill No: HB 183
Correction Substitute

Sponsor: Tim D. Lewis Agency Code: 305
Short Dual Sentencing of Youthful Person Writing Jared Jeppson
Title: Offenders Phone: 505-222-9068 Email jjepson@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(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						

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

BILL SUMMARY

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.

Synopsis:

The bill proposes to add two new sections to the New Mexico Delinquency Act. The two new sections are introduced in Section 5 and Section 6 of the bill. The first four sections of the bill deal with minor changes the new sections would have on the current Delinquency Act (see underlined language in the bill).

The major addition to the Delinquency Act, proposed in Section 5 of the bill, is referred to as Dual Sentencing of Youthful Offenders. This would provide judges in the juvenile justice system additional options when sentencing youthful offenders. It allows judges to impose a fine, a juvenile sentence and an adult criminal sentence. The adult criminal sentence is stayed, however, pending no violation of the juvenile sentence and/or no new offense is committed. In the event of violation and/or additional offenses by the juvenile, the stay on the adult sentence can be lifted and the juvenile serves the adult sentence when they reach the age of majority.

The second addition being proposed to the Delinquency Act is found in Section 6 of the bill. It deals with how to carry out the adult sentence in the event the juvenile sentence is violated or a new offense is committed.

FISCAL IMPLICATIONS

There are no direct fiscal implications. The indirect fiscal implications would affect the legal system in holding additional hearings if there is a violation of the juvenile sentencing requirements. There would also be indirect fiscal implications for the New Mexico Corrections Department in carrying out the sentencing requirements.

SIGNIFICANT ISSUES

States have been implementing "dual sentencing" methods in the juvenile justice system since 1995, a time when many states were revamping their juvenile justice systems. One of the main issues that states have dealt with in implementing dual sentencing is confusion by the offender, as well as by legal officials in carrying out the dual sentence. Another concern of dual sentencing is how it affects the constitutional rights of juveniles pertaining to due process under the law. The rights of juveniles under the constitution are different than adults. The US Supreme Court has ruled that juveniles do not have a constitutional right to trial by jury. Juveniles do not always

have the same substantive and procedural rights as provided to adult criminal offenders such as jury trials and bail.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Judges will be constrained to the current Delinquency Act which allows juveniles to receive juvenile sentences or adult sentences, but not both.