

LFC Requester:	Theresa Rogers
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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 1/15/2016
Original **Amendment** **Bill No:** HB 95
Correction **Substitute**

Sponsor: Reps. Gentry & P. Pacheco **Agency Code:** 305
Short Title: Hate Crimes Against Law Enforcement **Person Writing:** Joshua R. Granata
Title: Enforcement **Phone:** 827-6088 **Email:** jgranata@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

N/A

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:

House Bill 95 is an act which amends the Hate Crimes Act, NMSA 1978, Sections 31-18B-1 to -3. The proposed act modifies the class of victims which justify enhanced sentences for crimes motivated by hate. The proposed act changes the term “handicapped status” to “disability” and adds a new class of victims—law enforcement officers.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

The term “law enforcement officer” is not defined in the definitions section of the proposed act. NMSA 1978, Section 31-1-2(F), however, defines the term to include police officers, peace officers and officers. It may provide clarity to add a definition for the term or reference the definition provided in Sec. 31-1-2(F). If police officers, peace officers and officers are not to be included in the protected class, the act should be amended to indicate the limited definition law enforcement officer.

Additionally, the proposed act will add to the class of victims protected under the current act a group that is not traditionally or historically considered to need heightened protections—law enforcement officers. While case law holds that it is solely within the province of the legislature to establish penalties for criminal behavior, *See State v. Lack*, 98 NM 500, case law interpreting Article II, Sec. 18 of the NM Constitution, holds that the legislature can classify a group and adapt laws regarding that class so long as the laws are rationally based. Furthermore, the law must be reasonable and not arbitrary.

PERFORMANCE IMPLICATIONS

None

ADMINISTRATIVE IMPLICATIONS

None

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None

TECHNICAL ISSUES

None

OTHER SUBSTANTIVE ISSUES

None

ALTERNATIVES

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

AMENDMENTS

None