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FISCAL IMPACT REPORT

ORIGINAL DATE 01/27/10
 LAST UPDATED 02/17/10 **HB** _____

SPONSOR Rue

SHORT TITLE Missing Person & Amber Alert Info & Training **SB** 55/aSJC/aSFI#1/aHJC

ANALYST Weber

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY10	FY11	FY12	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Minimal*	Minimal*			

(Parenthesis () Indicate Expenditure Decreases)

*See Fiscal Impact

SOURCES OF INFORMATION

LFC Files

Responses Received From

- Administrative Office of the Courts (AOC)
- Attorney General Office (AGO)
- Regulation and Licensing Department (RLD)
- Department of Health (DOH)
- Children Youth and Families Department (CYFD)
- Department of Public Safety (DPS)

SUMMARY

Synopsis of HJC Amendment

House Judiciary Committee Amendment of Senate Bill 55, on page 19, lines 5 through 10, strike Subsection B in its entirety.

This eliminates the following:

B. The intentional or willful neglect of a state agency officer or employee to fulfill a duty imposed on the officer or employee by the Missing Persons Information and Reporting Act shall be grounds for removal from office as provided by law or disciplinary action up to and including dismissal pursuant to the Personnel Act."

Synopsis of SFI Amendment #1

Senate Floor Amendment #1 Senate Bill 55, on page 3, lines 2 and 3, underscore "or another degenerative brain disorder".

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment replaces language through-out that refers to “bodies” or “bodies of persons” with “human remains”.

On page 11, strike lines 21 and 22 in their entirety and insert thereof:

(1) no later than two hours after receiving the report, enter identifying and descriptive”.

On page 15, line 9 and page 16, line 4, strike “Information” and insert in lieu thereof “Insurance” to correct “Health Insurance Portability and Accountability Act of 1996.

And, after correcting punctuation, on page 17, between lines 2 and 3 insert a new subsection to read:

“C. Law enforcement agencies that receive notice of possible match between human remains and a missing person description shall notify the office of the state medical investigator.”

Synopsis of Original Bill

Senate Bill 55 enacts a new section of the Law Enforcement Training Act, Sections 29-7-1 through 29-7-13 NMSA 1978, amends and adds a new section to the Missing Persons Information Act, Sections 29-15-1 through 29-15-12, and repeals the Missing Child Reporting Act, Sections 32A-14-1 to 32A-14-4 NMSA 1978.

Section 1 enacts a new section of the Law Enforcement Training Act to require a minimum of four hours of combined missing person and AMBER alert training in basic law enforcement training, as well as a component of such training for annual in-service training for certified police officers.

Section 2 amends Section 29-15-1 NMSA 1978 to change the title of the act to the "Missing Persons Information and Reporting Act.”

Section 3 makes technical changes to Section 29-15-2 and adds a new paragraph F to the definitions for "law enforcement agency" to mean a law enforcement agency of the state, a state agency or a political subdivision of the state. It also adds a new paragraph N defining "state registrar" as “the employee so designated by the public health division of the department of health pursuant to the Vital Statistics Act.”

Section 4 makes technical changes to Section 29-15-3, and removes references to the “regulations” of the department of public safety in setting out the responsibility of that department to establish and administer a “missing persons information clearinghouse” according to its department “rules.”

Section 5 makes technical changes to Section 29-15-5 relating to information requests to law enforcement agencies from custodians or immediate family members to require oral or written “requests” rather than “notifications” and that the person who is the subject of the requests be “missing.” The section also adds that the agency is to report on the results of its inquiry to the clearinghouse within the specified time period.

Section 6 adds paragraph D to the required identifying and descriptive elements of a missing person report form listed in Section 29-15-6 to include many specifics of physical appearance, height, weight, birthdate, blood type, clothes, personal information such as drivers license, cell phone and social security numbers, email address, automobile or other transportation, medical, employment or school details – in other words, any information relating to the person’s appearance, identification, circumstances of disappearance and possible identity of persons involved in the disappearance.

Section 7 adds to the duties of a law enforcement agency to receive a missing person report in Subsection 29-15-7(A) to accept the same “without delay and without exception for any reason” and to act as specified on the report “no later than two hours after receiving the report” rather than the prior “immediately.” Subsection 29-15-7(B) is amended to require the entry of subsequently available information into the clearinghouse no later than two hours after receiving such information.

Section 8 enacts new Section 29-15-7.1 in the Missing Persons Information and Reporting Act. The new section requires a law enforcement agency to enter identifying and descriptive information into the national crime information center computer no later than two hours after receiving a report of a missing child and notify the state registrar within specified time frames. After a child is found, designated law enforcement agencies are to clear the information from the national database and notify the registrar.

Section 9 enacts new Section 29-15-7.2 to require the state registrar to flag a missing child’s birth certificate to alert the registrar when and if that child’s birth certificate or related information is requested or to alert the corresponding officer of whatever state the child was born in. Subsection 29-15-7.2(C) sets out the procedure to respond to inquiries about a missing child’s birth certificate or related information and to notify the appropriate law enforcement agency. Subsection D provides for removing the flag upon notification of recovery of the child.

Section 10 makes technical changes to Section 29-15-8 relating to federal requirements for obtaining a missing person’s dental records through either a records release form or a direct request by a law enforcement agency.

Section 11 makes technical changes to Section 29-15-9 changing references to the clearinghouse’s checking and matching (to missing persons) of unidentified “bodies” to “human remains.”

Sections 12 and 13 make similar technical changes to Section 29-15-10 and -11 and also change “regulations” to “rules” in provisions for interagency cooperation and confidentiality of records.

Section 14 amends former Section 29-15-12 that provided that the attorney general is to require law enforcement agencies to comply with the act through mandamus or other appropriate remedies to the broader provision that the attorney general is to “enforce state agency compliance ... as appropriate to assure the immediate response to a report of a missing person.” New Subsection B provides that “[t]he intentional or willful neglect of a state agency officer or employee to fulfill a duty imposed on the officer or employee by the Missing Persons Information and Reporting Act shall be grounds for removal from office as

provided by law or disciplinary action up to and including dismissal pursuant to the Personnel Act."

Section 15 repeals the Missing Child Reporting Act, Sections 32A-14-1 to 32A-14-4 NMSA 1978, presumably because the above-described changes cover that subject area.

FISCAL IMPLICATIONS

The AOC notes:

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law, commenced prosecutions and appeals of adverse employment actions to court resulting from discipline resulting from Section 29-15-12(B). New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

The AOG adds there could be added expense for their agency:

As drafted, the SB 55 requires the Attorney General to enforce state agency compliance with the act to assure immediate response to a report of a missing person. If this is not fulfilled by a state agency officer or employee, they may be removed from office or disciplined. The act authorizes the department of public safety to accept private and public grants, gifts and donations to assist the department in carrying out the provisions of the act. The act does not mention any appropriation for the Attorney General for additional staff to carry out these duties.

While DPS is charged with additional training responsibilities the agency does not anticipate costs that cannot be absorbed.

SIGNIFICANT ISSUES

CYFD offers the following background:

The language drafted in the bill is the result of a task force composed of law enforcement agencies, providers, state agencies and others that met to improve the State's ability to respond to and act on reports of missing persons. The task force met in response to the number of bodies that were found on the West Mesa in Bernalillo County. The task force members sought to use existing resources in a better, more coordinated, and more efficient manner. The bill includes provisions for expanding the content of existing law enforcement training to ensure front line law enforcement personnel are knowledgeable about the requirements and provides for consequences for non-compliance.

DPS continues:

Currently, NM law enforcement, by and large, are unaware of many of the specific provisions of the Missing Person's Act, including their requirements under the law. Mandatory training can and should mitigate this issue. Having a central statute to refer to is both logical and efficient for officers investigating missing persons.

The capturing and reporting of additional information, coupled with automation, should prove to result in better access for law enforcement, the public, and family regarding missing persons. In total, the ultimate goal is the eventual recovery of missing person(s).

Without enacting the bill, the “status quo” will continue; statutory requirements not being met, data capture and sharing shortfalls, and below average missing person investigations.

The AOG questions whether it is clear who is authorized to use intentional or willful neglect for grounds for dismissal/discipline. As written, it implies the Attorney General has the power to fire officers or employees of state agencies that have intentionally or willfully neglected their duties under the act.

RLD suggests changes that may help preserve dental records:

Amend the Dental Health Care Act to require licensed dentists to retain records for ten years or two years after confirmation of a patient’s death. Also, authorize the Dental Health Care Board to discipline licensee who violate patient record retention requirements. This would have very limited impact on the Board, but would provide significant information for law enforcement agencies working on a missing person investigation.

TECHNICAL ISSUES

DOH identifies notes technical issues that could require an amendment:

Page 4, Lines 17-19, define the State Registrar as being designated by the Public Health Division. The State Registrar is appointed by the Secretary of the Department of Health and works within the Epidemiology and Response Division.

Page 13, Lines 17-18, refer to the vital statistics bureau of the health services division. The bureau is vital records and health statistics, part of the epidemiology and response division.

MW/mew:svb:mt