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FISCAL IMPACT REPORT

ORIGINAL DATE 02/03/10
 LAST UPDATED 02/18/10 **HB** _____

SPONSOR Lopez

SHORT TITLE Add Domestic Abuse to Missing Persons Info **SB** 167/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			NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Children Youth and Families Department (CYFD)

Department of Public Safety (DPS)

SUMMARY

Synopsis of House Judiciary Committee Amendment

The amendment makes the following changes:

1. On page 2, line 21, after “disease” insert “or another degenerative brain disorder”.
2. On page 3, line 23, strike “an” and strike “body” and insert “human remains”.
3. On page 4, line 8, strike “BODIES” and insert in lieu thereof “HUMAN REMAINS”.
4. On page 4, line 24, strike “immediately,”.
5. On page 5, line 7, strike “bodies” and insert in lieu thereof “human remains”.
6. On page 5, line 10, strike “body” and insert in lieu thereof “human remains”.
7. On page 5, line 11, strike “on the body” and insert in lieu thereof “with the human remains”.

These are language changes that do not alter the substance of the bill.

Synopsis of Original Bill

Senate Bill 167 amends sections of Chapter 29 NMSA 1978 to include victims of domestic abuse, as provided in the Crimes Against Household Members Act or the Family Violence Protection Act, as endangered persons; to expand the definition of “immediate family member” to include a close friend of a person; and require notification of the missing person report within twelve hours to the Department of Public Safety.

FISCAL IMPLICATIONS

There is no apparent fiscal requirement.

SIGNIFICANT ISSUES

CYFD raises an issue that the bill may result in unintended consequences.

If a domestic violence victim has escaped from an abusive relationship, this mechanism could be inappropriately used by the perpetrator to locate the victim. There is nothing that prohibits the perpetrator from utilizing these provisions to track a victim, especially if they clearly fall within the definition of immediate family member, which is further broadened by the inclusion of “close friend.” Some of the notification actions that law enforcement is required to take under the act would compromise the safety of a victim attempting to escape an abusive relationship, especially when the victim has been unable to notify family members of their escape.

DPS echoes similar concerns:

The danger of including victims of domestic violence and those with current or past protection orders in the "endangered person" portion of the statute is that DPS and media resources may inadvertently be deployed when a batterer/stalker is the "reporting person" or "immediate family member" reporting a fleeing/hiding victim as a missing person. In other words, media and law enforcement may inadvertently assist a batterer/stalker in locating the victim.

In 29-15-3.1 DPS is directed to make an independent assessment to determine if the person is an "endangered person". Concerning DV victims, DPS would be remiss in making this assessment without the input and coordination from the investigating agency.

Additionally, there are no parameters with respect to "time". For example, if a person was a victim of domestic violence in 1989, and is reported missing in 2010, is law enforcement obligated to classify this missing person as an "endangered missing person"? Also, is law enforcement obligated to make this determination, or is an assertion by a reporting person ample to classify this person as "endangered"?

The circumstances of the current missing person report should guide the classification of the missing person (i.e. endangered). Past and current domestic issues included, but not standing alone.

TECHNICAL ISSUES

There should be a definition of “close friend” added in 29-15-2 E. on page 2 line 23.

MW/svb