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FISCAL IMPACT REPORT

ORIGINAL DATE 01/24/12

SPONSOR Fischmann LAST UPDATED _____ HB _____

SHORT TITLE Crime of Failure to Report Death of a Child SB 13

ANALYST Chabot

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Minimal	Minimal	Minimal		

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 97

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the District Attorneys (AODA)
 Attorney General Office (AGO)
 Children, Youth and Families Department (CYFD)
 Department of Public Safety (DPS)
 New Mexico Sentencing Commission (NMSC)
 Public Defender Department (PDD)

SUMMARY

Synopsis of Bill

Senate Bill 13 creates a new section of the Criminal Code making failure to report the disappearance of a child by a parent or guardian within 24 hours of a disappearance as a misdemeanor. Failure to report the death of a child within one hour by a parent or guardian if the death was not under the care of a health care professional or emergency medical personnel is a misdemeanor.

FISCAL IMPLICATIONS

Funding to enforce this bill is deemed include in law enforcement and district attorney appropriations.

SIGNIFICANT ISSUES

CYFD reports similar legislation is being introduced in a number of states as a result of the Caylee Anthony trial in Florida. The child was not reported missing by her parent and was later found murdered.

NMSC states the penalties provided in this bill are proportional to those for failure to report child abuse and neglect found in Section 32A-4-3 NMSA 1978. However, it poses the question of whether the law should apply to a 17-year old serial runaway.

AODA states these two misdemeanors can be absorbed fairly easily into the administrative systems existing agencies.

The AGO mentions nationwide opponents to “Caylee laws” question whether a misdemeanor penalty is a deterrent to not reporting disappearance or deaths. Proponents maintain the reporting laws are necessary to save children’s lives and help law enforcement.

DPS raises the consideration of possible Miranda complications if reporting is delayed due to an individual seeking legal counsel. In addition, the law does not define when the “clock starts to run” on the reporting requirements. DPS also advises some states have enacted similar legislation where the failure to report is a felony.

RELATIONSHIP

SB 13 is related to SB 97 which expands the reporting to include individuals with Alzheimer’s or another degenerative brain disorder. It further states, the failure to report is a fourth degree felony if a reasonable person would believe the child or adult was in danger of physical harm.

OTHER SUBSTANTIVE ISSUES

The AG offers that parents or guardians may not know when a child went missing. In some instances, a parent may not know a child died and gives an example of an automobile accident when the parent or guardian is not with the child at the time of the accident. The short timelines “may ensnare innocent parents.”

PDD suggests additional definitional language should be included to forestall litigation.

GAC/svb