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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/20/13

SPONSOR Lopez LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Domestic Violence & Missing Persons SB 429

ANALYST Trowbridge

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrec	Fund Affected
<b>Total</b>	NFI	NFI	NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to SB 49, SB 132, SB 262, SB 294, SB 407, SM 26, HM 32, HB 173

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the District Attorneys (AODA)

Attorney General's Office (AGO)

Department of Public Safety (DPS)

### SUMMARY

#### Synopsis of Bill

The intent of the bill is to protect domestic violence victims and to prevent abuse of the missing persons act by domestic abusers. Senate Bill 429 (SB 429) amends NMSA 29-15-2, Missing Persons Information and Reporting 29-15-1, et al, NMSA 1978, as amended, and repeals Laws 2010, Chapter 32, Section 3.

**Section 1:** This section modifies the definitions in the Missing Persons Information Act. Section 29-15-2 (D) defines 'endangered' person'. This bill creates a new category to include a person who "has been a victim of domestic abuse and did not voluntarily flee". A new subsection is added that defines "victim of domestic abuse" as a person who has been a victim of: (1) a crime enumerated in the Crimes Against Household Members Act, Section 30-3-10 through 30-3-18; (2) Stalking, Section 30-3A-3; (3) Aggravated Stalking, Section 30-3A-3.1; (4) or a person who is or was protected by an order of protection pursuant to the Family Violence Protection Act, Section 40-13-1 through 40-13-12.

**Section 2:** A family member or custodian who requests information from a law enforcement agency about a missing person is to be given any available information UNLESS “the missing person was ... a victim of domestic abuse who voluntarily fled”.

**Section 3:** Information about a missing person that the police have determined is a victim of domestic abuse that has voluntarily fled shall not be entered into the missing persons information clearinghouse.

**Section 4:** The bill repeals Laws 2010, Chapter 32, Section 3.

## FISCAL IMPLICATIONS

The Administrative Office of the District Attorneys (AODA) reports his bill has no fiscal impact on DA offices; however, it will have an impact on law enforcement agencies. However, the Department of Public Safety (DPS) indicates no fiscal impact from passage of the proposed legislation and that there is no impact to the Missing Persons Clearinghouse, and any impact to law enforcement in the field would be minor.

## SIGNIFICANT ISSUES

The Attorney General’s Office (AGO) has identified several significant legal issues with SB 429:

1. Definitions in 29-15-2, Section D (4) and (5) are combined and simplified. In this bill, definition number 4 of an endangered person means a missing person who has been a victim of domestic abuse and did **not** voluntarily flee. Section O of definitions section defines a victim of domestic abuse using the same terms in current section D(4) and (5). The wording is the same; however, the language has been combined and moved to new section O.
2. NMSA 29-15-5 (B) prevents law enforcement from reporting information about a missing person if law enforcement has reason to believe that the missing person is a victim of domestic abuse and who **has voluntarily fled.**
3. NMSA 29-15-7 (C) reconciles current law enforcement requirements to investigate and report missing persons to the crime clearinghouse and the national crime information center. New section C provides an exception that law enforcement reports and information **shall not apply** to a missing person who is a victim of domestic abuse if law enforcement has reason to believe the person **voluntarily fled.**

The AGO indicates that these are reasonable amendments to prevent abusers from using law enforcement to track their victims, a recurring issue that is well known to domestic violence prevention agencies and law enforcement.

The DPS indicates the most significant issue presented by the proposed legislation is the requirement that the Missing Persons Clearinghouse would no longer compile information on individuals who were victims of domestic violence who voluntarily fled, thus not really meeting the definition of a missing person.

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 49 CYFD Statewide Domestic Violence Programs

SB 132 Uniform Enforcement of Domestic Violence Orders Act (out of state protection orders)

SB 262 Strangulation and suffocation, 3<sup>rd</sup> degree felonies

SB 294 Expungement of Criminal records, (if no other incidents of domestic violence, conviction expunged after 10 yrs)

SB 407 mandated reporting of domestic abuse incidents  
SM 26 Reauthorize Fed. Violence Against Women Act  
HM 32 One Billion Rising  
HB 173 Uniform Child Abduction Prevention Act  
HB 301 Domestic Violence “at the scene”  
HB 326 Domestic Violence Case Training (tribal funding)

**OTHER SUBSTANTIVE ISSUES**

The AGO indicates that these amendments are consistent with the policies in NMSA 40-13-11 Substitute Address (for victims of domestic abuse) and NMSA 40-13-12 Limits on Internet publication, which provides that state agencies shall not make available publicly on the internet any information that would likely reveal the identity or location of a party protected under an order of protection.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The AODA states this bill clarifies that victims of domestic violence who voluntarily flee are not missing persons and their information shall not be listed. The DPS reports the Missing Persons Clearinghouse may be required to compile information on individuals who are victims of domestic violence who have voluntarily fled.

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