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## FISCAL IMPACT REPORT

**SPONSOR** HCEDC **ORIGINAL DATE** 2/4/19  
**LAST UPDATED** 2/19/19 **HB** CS/HB99/aHJC

**SHORT TITLE** Fingerprints To Renew License Not Required **SB** \_\_\_\_\_

**ANALYST** Gaussoin

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
		Indeterminate Loss		

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB98

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Regulation and Licensing Department (RLD)  
 New Mexico Attorney General (NMAG)  
 Department of Game and Fish (DGF)  
 Department of Health (DOH)  
 Public Education Department (PED)  
 Department of Public Safety (DPS)

#### No Response Received From

Higher Education Department (HED)

### SUMMARY

#### Synopsis of the HJC Amendment

The House Judiciary Committee amendment to CS/House Bill 99 establishes a delayed effective date of January 1, 2020. DPS reports the bill's prohibition on the use of fingerprints for occupational and professional license renewal effectively eliminates the ability to conduct a background check for license renewal. However, the agency says it should have a system in place by 2020 that will allow background checks without fingerprints.

### Synopsis of the Original Bill

The House Commerce and Economic Development Committee Substitute for House Bill 99 amends the Uniform Licensing Act to prohibit a professional or occupational board from requiring fingerprints for a license renewal if fingerprints were required for the initial application. A board could still require a background check for license renewal.

The bill also makes technical and conforming changes to the Professional Psychologist Act (61-9-11.2 NMSA 1978), Private Investigations Act (61-27B-34 NMSA 1978), Real Estate Brokers and Salesmen (61-29-4.4 NMSA 1978), and Real Estate Appraisers Act (61-30-15.1 NMSA 1978).

### **FISCAL IMPLICATIONS**

DPS reports the Law Enforcement Records Bureau would lose fee revenue from fingerprint processing, which provides the majority of the bureau's funding. However, it does not distinguish fingerprint processing conducted for license renewals from that conducted for initial licenses and cannot extrapolate the fiscal impact.

RLD indicates prohibiting fingerprinting at the time of licensing renewal would shift responsibilities from the licensees to RLD staff and the licensing board to regularly monitor any available databases. RLD says respective entities would need to adopt rules, modify forms, and create new monitoring processes.

### **SIGNIFICANT ISSUES**

DPS reports the background checks it conducts rely on fingerprints to establish positive biometric identification. Without resubmission of the fingerprints with license renewal, the agency cannot determine the nationwide criminal history of an applicant since the initial application.

DOH notes the amendment would not only impact professional and occupational licensing boards specifically listed under the Uniform Licensing Act but also any executive agency that licenses professionals pursuant to the act. Under the Emergency Medical Systems Act (24-10B-5.2A NMSA 1978), emergency medical technicians must undergo a criminal background check that meets the standards of the act.

The department requires EMTs to renew licensure every four years, and the department raises concerns the prohibition against the use of fingerprints will prevent the department from conducting thorough background checks for license renewals. DOH concludes the bill would impair the agency's ability to properly protect the health of New Mexicans.

The Public Education Department reports the bill would not affect the agency; however, online information from PED states all licensed school employees, including contractors, must undergo a background check every two years. Similar rules apply to childcare providers licensed under the Children, Youth and Families Department

RLD, which oversees more than three dozen boards and commissions, indicates that, without fingerprints, background checks would be limited to self-reporting, public records, news media

accounts, and private reports or complaints – sources that are not always factually reliable. If fingerprinting is prohibited on renewal, licensing entities may not have access to national and current arrest record information to properly safeguard and protect the public. Many licensees have access to consumers' homes and to sensitive and confidential information, and some are authorized under the Private Investigations Act to carry weapons.

A review of state statutes indicates the Uniform Licensing Act applies to at least six agencies outside RLD, although it is unclear how many include criminal background checks in their rules for initial licensure or license renewal.

DPS indicates the federal RapBack program, which would not require the resubmission of fingerprints, could be implemented in New Mexico by 2020, assuming legislative approval. DPS has started to modify the automated fingerprint identification system, civil fingerprint portal, and the Criminal Justice Information System in anticipation of RapBack implementation.

### **ADMINISTRATIVE IMPLICATIONS**

RLD indicates prohibiting a fingerprints requirement for renewal would have the greatest impact on the Private Investigations Advisory Board, which would be required to change its rules to eliminate the requirement. DOH reports it would also have to adopt new rules if the legislation is enacted.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

House Bill 98 prohibits the RLD superintendent from requiring fingerprints for a license renewal and strikes language in the Horse Racing Act requiring fingerprints for a racetrack license renewal.

### **TECHNICAL ISSUES**

On Page 3, Line 14, the inserted language is unclear.

### **OTHER SUBSTANTIVE ISSUES**

RLD specifically notes the Professional Psychologists Act requires criminal history background checks for initial licensure but not for license renewal, and the Real Estate Appraisers Board requires a background check for employees of an appraisal management company. The agency is silent on other boards and commissions.

HFG/gb