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FISCAL IMPACT REPORT

ORIGINAL DATE 1/30/19

SPONSOR Rehm LAST UPDATED _____ HB 102

SHORT TITLE Police Officers as Victims of Crime SB _____

ANALYST Edwards

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Response Received From

Crime Victims Reparation Commission (CVRC)

Response Not Received From

Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

House Bill 102 would amend the Victims of Crime Act to include crimes against peace officers, including aggravated assault, assault with intent to commit a violent felony, battery, and aggravated battery.

FISCAL IMPLICATIONS

The Crime Victims Reparation Commission states there would be no additional fiscal impact as a result of this bill. CVRC already assists peace officers with any expenses actually and reasonably incurred as a result of the victim's injury or death and takes into account collateral sources, such as personal insurance and workers compensation.

SIGNIFICANT ISSUES

The AOC provided the following analysis to this House Bill 31 from the 2018 session which is the same as House Bill 102:

Section 31-26-2 NMSA 1978 states that it is the purpose of the VOCA to assure that:

- A. the full impact of a crime is brought to the attention of a court;
- B. victims of violent crimes are treated with dignity, respect and sensitivity at all stages of the criminal justice process;
- C. victims' rights are protected by law enforcement agencies, prosecutors and judges as vigorously as are the rights of criminal defendants; and
- D. the provisions of Article 2, Section 24 of the constitution of New Mexico are implemented in statute.

Additionally, Section 31-26-4 NMSA 1978 provides victims with the following rights:

- A. be treated with fairness and respect for the victim's dignity and privacy throughout the criminal justice process;
- B. timely disposition of the case;
- C. be reasonably protected from the accused throughout the criminal justice process;
- D. notification of court proceedings;
- E. attend all public court proceedings the accused has the right to attend;
- F. confer with the prosecution;
- G. make a statement to the court at sentencing and at any post-sentencing hearings for the accused;
- H. restitution from the person convicted of the criminal offense that caused the victim's loss or injury;
- I. information about the conviction, sentencing, imprisonment, escape or release of the accused;
- J. have the prosecuting attorney notify the victim's employer, if requested by the victim, of the necessity of the victim's cooperation and testimony in a court proceeding that may necessitate the absence of the victim from work for good cause;
- K. promptly receive any property belonging to the victim that is being held for evidentiary purposes by a law enforcement agency or the prosecuting attorney, unless there are compelling evidentiary reasons for retention of the victim's property; and
- L. be informed by the court at a sentencing proceeding that the offender is eligible to earn meritorious deductions from the offender's sentence and the amount of meritorious deductions that may be earned by the offender.

There is a question as to whether the purpose of the VOCA reveals an intent and a necessity to protect the rights of a peace officer, engaged in law enforcement and/or vested by law with a duty to maintain public order or to make arrests for crime. (See definition, "peace officer," Section 30-1-12 NMSA 1978.) For example, a stated purpose of the VOCA is to assure that "victims' rights are protected by law enforcement agencies, prosecutors and judges as vigorously as are the rights of criminal defendants".

There is also a question as to whether it is necessary to extend the Section 31-26-4 NMSA 1978 rights to a peace officer, who may already be entitled to workers' compensation and restitution while in the lawful discharge of the officer's duties. Additionally, the Section 31-26-8 NMSA 1978 procedures to be undertaken by the investigating law enforcement agency may also be unnecessary in instances where the victim is a peace officer.

If there are specific rights within the VOCA that are not already extended to a peace officer in the lawful discharge of the officer's duties, HB 31 could be tailored to ensure those rights are extended to peace officers in lawful discharge of their duties.

TECHNICAL ISSUES

This amendment would include peace officers in the Victim of Crime Act, but it does not list the amendments under the "Crimes Enumerated" 31-22-8 NMSA 1978, in order to ensure CVRC would be able to determine peace officer eligible for compensation, these amendments need to include an amendment to the "Crimes Enumerated" section.

TE/sb