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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 3/1/19

**SPONSOR** Chasey/Cadena      **LAST UPDATED** \_\_\_\_\_      **HB** 533

**SHORT TITLE** Notice Of Crime Victim Reparation & Procedure      **SB** \_\_\_\_\_

**ANALYST** Edwards

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		
\$0.0	\$550.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates (in part) and relates to House Bill 342.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the District Attorneys (AODA)

Crime Victims Reparation Commission (CVRC)

Department of Public Safety (DPS)

### SUMMARY

#### Synopsis of Bill

House Bill 533 amends provisions in the Crime Victims Reparation Act and the Victims of Crime Act, and makes an appropriation.

Section 1 amends Section 31-22-7 NMSA 1978 to clarify that its provisions apply to “an act or omission constituting a crime.” It also changes the reporting requirements to allow the act or omission constituting a crime to be reported to a licensed medical, mental health or counseling provider or tribal health provider. It also expands the cooperation requirement, allowing orders to be issued if the commission “finds that the claimant or victim acted reasonably under the circumstances.”

Section 2 amends Section 31-22-14 NMSA 1978 to remove the requirement that the crime be reported to the police within 30 days after its occurrence. It also removes the reporting time limits for minor victims of abandonment or abuse, criminal sexual penetration and criminal sexual contact.

Section 3 amends Section 31-26-4 NMSA 1978, Victim's Rights, to add that a victim has the right to be notified by law enforcement and the district attorney of the availability of and procedures to apply for crime victim reparation.

Section 4 amends Section 31-26-8 NMSA 1978 to require that the law enforcement agency investigating a criminal offense provide the victim (or a member of the victim's family, if appropriate) with a written notification in a manner and form prescribed by the crime victims reparation commission of the availability of crime victim reparation and eligibility to apply.

Section 5 amends Section 31-26-9 NMSA 1978, to add to the information a district attorney must provide to the victim within seven working days after filing a formal charge. Under HB533, the district attorney must provide the victim with a written notification in a manner and form prescribed by the crime victims reparation commission of the availability of crime victim reparation and eligibility to apply.

Section 6 amends Section 36-1-26 NMSA 1978 to require the director of the administrative office of the district attorneys to prepare and distribute forms for collecting victim impact information.

Section 7 appropriates \$550 thousand from the general fund to the crime victims reparation fund for expenditure in fiscal year 2020 to cover additional crime victims seeking reparations pursuant to the Act.

Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

## **FISCAL IMPLICATIONS**

The appropriation of \$500 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY20 shall revert to the general fund.

CVRC collected data regarding the 200 cases from Sexual Assault Nurse Examiners (SANE) in our state for FY18 where there was no law enforcement report and from our Performance Measure Tool (PMT) which is the [data] collected and reported annually to the federal government of 90 cases which were not reported to law enforcement or 60 cases who failed to report to law enforcement. These two values indicate that 350 victims applied for or sought assistance but were ineligible under our current statute. CVRC collected from [the] FFY18 report the payments to 1,082 compensation claims and the total paid out of those claims which was \$1.7 million. The average for each of these compensation claims was \$1,579. From the 350 claims not accepted which would be eligible with this proposed legislation, [the] calculation is as follows: 350 (claims) x \$1,579= \$556,180 per year. These costs would be almost totally covered by the appropriation in the bill.

The AODA expects the additional responsibilities under House Bill 533 will involve additional time and cost. The AODA is charged with preparing and distributing form for collecting victim impact information. The district attorneys must provide victims written notification of the availability of crime victims reparation and eligibility to apply.

DPS does not anticipate a fiscal impact due to the bill and explains their department's Victims Assistance Unit already provides notice to victims, or their families, and assists them to apply for CVRC crimes in a written form provided by the CVRC.

## **SIGNIFICANT ISSUES**

CVRC supports increasing the accessibility to victims of crime through the commission's compensation program; New Mexico would be the 6th state in nation to pass such legislation, making the state one of the leading states taking a victim centered approach to compensation and services. CVRC reached out to other states who passed such legislation to obtain the fiscal impact to their compensation programs and most had an increase of 10 percent or less to financial payouts in their respective states. As a result, CVRC supports the \$550 thousand appropriation to ensure victim needs are met.

AODA explains House Bill 533 expands eligibility for victims reparations by:

- Recognizing the report of an act or omission constituting a crime when it is made to a licensed medical, mental health or counseling provider or tribal health provider, with no time limit on making such a report;
- Recognizing a report made to police within a "reasonable time" and removing the 30 day reporting requirement;
- Removing the time limits for reports of certain crimes against a minor.

In addition, House Bill 533 amends the provision that the claimant or victim fully cooperate with the appropriate law enforcement agencies, allowing a reparations order to be issued if the commission finds that the claimant or victim acted reasonably under the circumstances.

House Bill 533 adds provisions to ensure that victims will be notified of the availability of, and procedures to apply for, crime victims reparations. Law enforcement must provide written notification. The district attorney must include such written notification in the packet of materials the district attorney must already provide to a victim within seven days of filing a formal charge against the accused.

There may be a significant increase in application for reparation, because many of the time limits have been removed. Under current law, there are strict time limits for the victim to report the offense (and the report must be to the police, unless the offense was to a child). It is not known whether the \$550 thousand appropriation will be sufficient to cover the additional claims.

It may be extremely difficult for the commission to determine whether reparations should be ordered in very old cases (especially if they were not reported to authorities at the time), in cases which were never reported to law enforcement (and therefore were not investigated), and in cases in which the victim or claimant did not cooperate with law enforcement.

DPS states "the bill proposes to eliminate the requirement that, in order to be eligible for reparation funding, the crime must have been reported to the police within thirty days after its occurrence unless granted a waiver by the CVRC. The DPS prefers timely reporting of crimes, and failure to do so may impact victim safety or criminal prosecutions. However, the availability of reparation funding need not be eliminated by failure to do so. There are occasions where a

victim is unable or finds it in advisable to report within 30 days. On the other hand, the current version of this law does give the CVRC discretion to waive the 30-day reporting requirement under certain scenarios. Completely eliminating this requirement for all victims may adversely impact victim safety and prosecutions.”

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

Duplicates (in part) and relates to House Bill 342.

## **TECHNICAL ISSUES**

AODA points out the following technical issues:

Section 1 provides that a report be made to the police “in a reasonable time,” but it does not impose that reasonable time requirement on a report made to a licensed medical, mental health or counseling provider or tribal health provider.

Section 4 requires law enforcement to provide the victim “or, if appropriate, a member of the victim’s family” with written notice regarding reparations. Presumably, this is to recognize that it may be appropriate to give notice to a family member instead of the victim, if the victim is a minor, is incapacitated, or deceased. Section 5 requires the district attorney to provide such notice to the victim, but is silent on providing notice to the victim’s family.

It’s not clear why Section 1 amends “ground” to make it plural in Section 31-22-7(E) NMSA 1978.

TE/gb