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FISCAL IMPACT REPORT

ORIGINAL DATE 2/13/19

SPONSOR Lopez **LAST UPDATED** _____ **HB** _____

SHORT TITLE Missing & Murdered Native American Data **SB** 453

ANALYST Edwards

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown	At least \$72.2	At least \$72.2	At least \$144.4	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to House Bill 278.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Public Safety (DPS)

Department of Health (DOH)

New Mexico Attorney General (NMAG)

Indian Affairs Department (IAD)

SUMMARY

Synopsis of Bill

Senate Bill 453 adds a new section to the Department of Public Safety Act requiring collection and maintenance of statistics on Native Americans reported missing or murdered in New Mexico. Data which would be collected under Senate Bill 453 includes age, gender, tribal enrollment or affiliation, numbers of open and closed cases and other relevant information as required by the secretary of the Department of Public Safety.

Senate Bill 453 further requires the secretary to develop guidelines to respond to cases of missing and murdered Native Americans in collaboration with the U.S. Department of Justice, the FBI, tribal, state and local law enforcement agencies, medical examiners, coroners and victim services organizations. The guidelines must include best practices on interjurisdictional cooperation among tribal, federal, state and local law enforcement agencies; best practices for conducting searches for missing persons on Indian land; standards on the collection, reporting and analysis of data and information on missing persons and unidentified human remains, and information on culturally appropriate identification and handling of Native American remains,

including timely entry of data into applicable databases; best practices on improving law enforcement agency response rates and follow-up; and best practices on ensuring access to culturally appropriate victim services.

FISCAL IMPLICATIONS

DPS believes there will be a fiscal impact to the agency should the bill be enacted.

The requirement to collect and maintain [the data required by the bill] will require [an addition] to the current Criminal Justice Information System (CJIS) Missing Person Clearinghouse (MPC) module. Additional data elements will be required to be added to the module. DPS in-house IT staff or contracted IT personnel will be needed to make the modification by July 2019. The cost [to procure this module] is unknown.

Senate Bill 453 will also require DPS to reach out and encourage the tribal agencies that currently are not required to report missing persons, homicide and unidentified persons into the National Crime Information Center system nor the Missing Persons Clearinghouse (pursuant to 29-15 NMSA 1978). It may require DPS to travel to the tribal agencies to train the tribal agencies how to participate in this requirement. Currently the DPS Law Enforcement Records Bureau (LERB) has 2 FTE to carry out the responsibilities of the Missing Persons Clearinghouse. This may require LERB to add another FTE to assist with the extra responsibilities with statistical data analysis, training and outreach. The requested FTE would be a Management Analyst – A. The estimated cost with benefits is \$72.2 thousand.

IAD explains the bill, as written, poses no fiscal impact to the agency.

NMAG, as a state law enforcement agency, would be required to collaborate with other enumerated law enforcement agencies to develop the guidelines specified in Senate Bill 453 which may have some additional budget impact.

SIGNIFICANT ISSUES

The Indian Affairs Department, through its participation in the Missing and Murdered Indigenous Women Taskforce and the Justice Reinvestment Working Group could be an important partner to the Department of Public Safety in the development of the data mandated in Senate Bill 453.

IAD explains:

Under 29-15-3 NMSA 1978, Missing Persons Information Clearinghouse, the Department of Public Safety is tasked with the administration of a clearinghouse that provides a central repository on missing persons information and is available to all state law enforcement agencies and tribal agencies.

Federally recognized Indian nations, tribes and pueblos in New Mexico can develop access to the U.S. Department of Justice (DOJ) Tribal Access Program for National Crime Information (TAP). This pilot program was launched in 2015 and provides tribes access to national crime information systems for both civil and criminal purposes. Currently 47 tribes nationwide

(including most New Mexico nations, tribes and pueblos) participate in a level of TAP development, which allows tribes to more effectively ensure the exchange of critical data across the Criminal Justice Information Services (CJIS) systems and other national crime information systems. Use of this online system requires broadband infrastructure, often times lacking in very rural tribal communities, and dedicated programmatic staff to support the development of the TAP system. Federal legislation currently being considered (Savannah Act) could potentially affect funding support for the development of TAP and other data gathering and reporting system requirements for federally recognized tribes.

House Bill 278 Missing and Murdered Indigenous Women introduced in this 2019 legislative session creates a taskforce chaired by the Cabinet Secretary for the Indian Affairs Department and is tasked with conducting a study to determine how to increase state resources for reporting and identifying missing and murdered indigenous women in the state. House Bill 278 mandates the respect of tribal sovereignty and the need to work with tribal governments and DOJ to improve its processes for information sharing and coordination of resources.

The current House Bill 267, Criminal Justice Reforms, requires the Department of Public Safety to share data with the New Mexico Sentencing Commission and mandates other reforms of the criminal justice system in New Mexico. The Indian Affairs Department is part of the Justice Reinvestment Working Group that is considering recommendations to this bill.

DOH states “from 2013-2017, American Indian/Alaska Native males had the second highest homicide rate among males at 22.1 deaths per 100 thousand. Over the same period, American Indian/Alaska Native women had the highest homicide rate among females at 6.1 deaths per 100 thousand. Better data collection as well as new standards for handling cases of missing and murdered American Indian people may help New Mexico agencies understand how to address these disparities.”

DOH also provided the following analysis:

From 2013 to 2017, the [age-adjusted homicide rate](#) among Native Americans in New Mexico was more than 30 percent higher than for NM as a whole, at 13.8 per 100,000 persons compared to the overall statewide homicide rate of 7.9 per 100,000 persons.

The [National Crime Information Center](#) (NCIC) maintained by the FBI provides numbers of missing persons reported annually. The rate of missing persons from 2012-2017 were higher among Native American youth aged 17 years and younger (660 per 100,000) than the rate of missing White youth (490 per 100,000).

A seminal [report](#) that raised awareness and concern about the levels of violence against American Indian women and the criminal justice response in the United States was published in 2008. The report examined many areas of concern, including the rates of homicide and sexual assault, limitations of existing data sources, and criminal justice challenges to balance the rights of residents of sovereign nations and the rights of residents of the United States.

A [report](#) on 2010 findings from the National Intimate Partner and Sexual Violence Survey found that 39.8% of American Indian/Alaska Native women and 34.6% of American Indian/Alaska native men have experienced violence in the past year (sexual violence,

physical violence, stalking, or psychological aggression by an intimate partner) compared to 23.3% of non-Hispanic, white women and 25.7% of non-Hispanic, white men.

Despite being able to report some of this data, overall data about missing and murdered Native American people in New Mexico and nationwide are incomplete, prompting new state and federal efforts to improve reporting and investigations as well as data collection. Washington state enacted a [law](#) to order a study that increases data collection and reporting of missing indigenous women, effective June 7, 2018. As of 2018, at the federal level, [Savanna's Act](#) (Senate Act 1942) which mandates new protocols for DOJ with respect to missing and murdered American Indian individuals was passed by the Senate, but has been held in the House.

Section C of Senate Bill 453 requires the Secretary of the Department of Public Safety to collaborate with several entities including tribal, state and local law enforcement agencies. It should be noted that for tribal entities that do not have their own law enforcement agency, tribal social services agencies may fill some of these roles. It should also be noted that, pursuant to New Mexico's State Tribal Collaboration Act, every state agency has a tribal liaison. These tribal liaisons and the New Mexico Indian Affairs Department might also inform the work proposed by Senate Bill 453.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 453 is related to House Bill 278, Missing & Murdered Indigenous Women. House Bill 278 differs in that it creates a task force chaired by the secretary of the Indian Affairs Department to study and determine how to increase state resources for reporting and identifying missing and murdered indigenous women in New Mexico. House Bill 278 and Senate Bill 453 may duplicate efforts and could result in inconsistent recommendations. Senate Bill 453 is also related to Senate Memorial 38, A Memorial Supporting U.S. Congresswoman Deb Haaland's Call for a National Investigation of Missing and Murdered Indigenous Women and Girls.

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