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FISCAL IMPACT REPORT

SPONSOR Padilla ORIGINAL DATE 02/17/21
LAST UPDATED _____ HB _____

SHORT TITLE Crime of Racing on Highways or Streets SB 343

ANALYST Graeser

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY21 | FY22 | FY23 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|--------|--------|----------------------|------------------------------|-------------------------------|
| Total | | \$53.0 | \$53.0 | \$106.0 | Recurring | Crime Victims Reparation Fund |

Parenthesis () indicate expenditure decreases

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Crime Victims Reparation Commission (NMCVRC)

Department of Public Safety (DPS)

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

Senate Bill 343 would amend the Crime Victims Reparations Act to create victim compensation eligibility for victims of the crime of racing in highways or streets which results in bodily injury to the victim. This change is in addition to the already existing eligibility for great bodily injury by vehicle and relates to injury, which is not permanent, or seriously disabling, or disfiguring or resulting in prolonged lack of use of a part of the body.

The bill provides a definition of "bodily injury" as less than great bodily injury and "proximate cause" for the injury. In the bill, proximately caused means that the crime must be a significant cause of the bodily injury and must have been foreseeable by the violator who committed the criminal offense.

The bill additionally allows the Motor Vehicle Division to suspend any type of driver's license without a preliminary hearing for a conviction of racing on a highway or street.

Finally, the bill provides an exception to the criminal sanctions for persons who seek written permission for a race or acceleration contest from the highest-ranking law enforcement officer in

the jurisdiction, either NMSP for interstate highways or state roads, or local law enforcement for streets or highways.

The effective date of this bill is ?July 1, 2021.

FISCAL IMPLICATIONS

Crime Victim Reparation Commission anticipates a \$53 thousand fiscal impact per year.

FY20 crimes of failure to render aid, great bodily injury by vehicle, negligent use of a deadly weapon represented about 77 compensation applications. On average each compensation claim was \$693.00 (77x693.00 = 53,000.00)

AOC notes the following:

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

NMCVRC's victim compensation fund would be made available to a new set of crime victims with injuries which must be evaluated for proximate causation and foreseeability. Motor vehicle collisions often result in internal injuries with ambiguous causation and prolonged consequences. In the civil realm, these causation questions are resolved through the use of experts not available to NMCVRC for their decisions.

AOC notes the following:

Under the Crime Victims Reparation Act, victims of certain crimes may receive reparations as provided in the act. By including “racing on highways or streets” in the enumerated list of crimes, a new group of victims (but only those who have suffered “bodily injury”) will be allowed to apply for and receive reparations as provided in the act. This amendment may have an impact of the fund set up by the Crime Victims Reparation Act.

Under the Motor Vehicle Code, the Motor Vehicle Division may suspend the driving privileges of certain individuals as provided in the code. The amendment would allow MVD to suspend the driving privileges of someone who has been convicted of “racing on highways or streets”.

By amending Section 66-8-115, individuals may lawfully participate in “any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration or for the purpose of making a speed record” on an interest highway or state road, or another highway or street only if written permission is obtained from the N.M. State Police Chief or from “the highest-ranking law enforcement official in that jurisdiction.” SB 343 does not provide any guidance as to who is considered “the highest-ranking law enforcement official in that jurisdiction”.

ADMINISTRATIVE IMPLICATIONS

TRD notes a small administrative impact: "... this bill requires changes to the MVD Tapestry system to account for the legal changes to the permit, license or provisional license suspension process for those convicted of racing on highways or streets. The estimated time to develop, test and implement the changes is approximately 160 hours or 4 weeks for an estimated \$8,300 of staff workload cost."

| Estimated Additional Operating Budget Impact* | | | | Recurring or Nonrecurring** | Fund(s) or Agency Affected |
|--|---------------|---------------|--------------------------|------------------------------------|-----------------------------------|
| FY2021 | FY2022 | FY2023 | 3 Year Total Cost | | |
| \$8.3 | -- | -- | \$8.3 | Nonrecurring | ITD – Staff Workload |

* In thousands of dollars. Parentheses () indicate a cost saving. ** Recurring (R) or Non-Recurring (NR).

TECHNICAL ISSUES

AOC notes the following:

SB343 amends the crime of "racing on highways or streets" by including the definitions of the terms "proximately causes" and "bodily injury"; however, those terms are not used in Section 66-8-115 NMSA 1978."

TRD notes the following:

The definition in Section 3, paragraph B, subsection 3, on page 7, lines 17-19, for "proximately causes" incorrectly uses the phrase that the person's act was a "significant cause of the harm". Proximate cause, as defined by Black's Law Dictionary, is "Also known as direct cause, the result of a direct action and cause of loss to property that sets in motion a chain of events that is unbroken and causes damage, injury, and destruction with no other interference. The loss is the results of one event." The Taxation and Revenue Department recommends that the definition, as used in Section 3, paragraph B, subsection 3, be amended to conform to the legal standard for proximate cause."

LG/sb