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## FISCAL IMPACT REPORT

SPONSOR Soules ORIGINAL DATE 2/26/2021  
LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_  
SHORT TITLE Law Enforcement Mental Health Programs SB 371  
ANALYST Chilton

### **ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$220.5	\$220.5	\$441.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to House Bills 4, 254, 263 and 307 and to Senate Bills 227, 274, and 375.

### **SOURCES OF INFORMATION**

LFC Files

#### Responses Received From

Human Services Department (HSD)

Department of Health (DOH)

Department of Public Safety (DPS)

#### No Response Received

Municipal League

New Mexico Counties

### **SUMMARY**

#### Synopsis of Bill

Under Senate Bill 371, each law enforcement agency in New Mexico would be required to establish a mental health program for its law enforcement officers, headed by a clinical psychologist to be clinical director of that program.

The clinical director would make available a written procedures manual and would appoint at least two officers as volunteer peer support officers. The peer support officers would have five years of law enforcement experience, be given at least 40 hours of training in the position, and be in good standing within the agency.

Law enforcement officers experiencing a traumatic event would undergo peer counseling within 72 hours of the event by phone, by technological means, or in person.

The bill mandates any material passed in a peer counseling session remain confidential and nondiscoverable and could not be released in response to a subpoena. Exceptions to this confidentiality mandate:

- 1) Threat of suicide or homicide,
- 2) Information related to child or elder abuse,
- 3) Admission of criminal conduct,
- 4) Revelations by the counseled officer or with the officer's express permission, or
- 5) Communications among volunteer support counselors or with the clinical director.

Information gathered for research can be used but must be de-identified.

Breach of confidentiality by the clinical director or a peer support officer would result in discipline.

There is no effective date of this bill. It is assumed the effective date is 90 days following adjournment of the Legislature.

## **FISCAL IMPLICATIONS**

There is no appropriation within Senate Bill 371. DPS estimates a need for \$220.5 thousand annually for the State Police; proportionate costs would accrue to other law enforcement agencies (county, municipal, and associated with universities) throughout New Mexico.

## **SIGNIFICANT ISSUES**

DOH and HSD both note evidence law enforcement officers have high rates of such psycho-emotional issues as post-traumatic stress disorder, depression, substance use disorders, and suicide. The federal Substance Abuse and Mental Health Administration has brought forward evidence of the risk of these disorders among law enforcement;<sup>1</sup> one study indicates a lifetime risk of suicidal ideation of 25 per cent among female and 23 percent among male officers.

DOH notes programs to address these issues have been established:

Several law enforcement agencies nationwide have implemented mental wellness programs (<https://cops.usdoj.gov/RIC/Publications/cops-p371-pub.pdf>). The first legislated law enforcement suicide and mental health support program was “Cop2Cop” established in 1998 in New Jersey (<https://njcop2cop.com/our-history/>). The City of Albuquerque Police Department presently offers psychological services through their behavioral sciences section including a peer support officer program. This program requires all cadets to complete a pre-employment evaluation with the psychologist as well as annual evaluations for all officers assigned to sensitive units such as bomb squad, SWAT, and K-9 (<https://www.cabq.gov/police/behavioral-sciences-section>).

## **ADMINISTRATIVE IMPLICATIONS**

HSD volunteers, “The Office of Peer Support, Recovery and Engagement (OPRE) within the

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<sup>1</sup> <https://www.samhsa.gov/sites/default/files/dtac/supplementalresearchbulletin-firstresponders-may2018.pdf>

Behavioral Health Services Division of HSD provides certification training of peer support workers with lived experience in substance abuse and/or mental health disorders. OPRE could provide technical assistance to law enforcement agencies on training and employing peers.”

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

SB371 relates to House Bill 4, the New Mexico Civil Rights Act; HB254, Law Enforcement Use of Deadly Force Reporting; HB263, Police Use of Force Reporting; HB307, Law Enforcement Tort Immunity Exceptions; Senate Bill 227, Inspection of Police Misconduct Investigation; SB274, Use of Deadly Force Reporting; and SB375, Officer Training and Certification.

### **OTHER SUBSTANTIVE ISSUES**

DPS expresses concerns that lacking confidentiality for expressing suicidal intent would discourage officers from mentioning such thoughts:

The statement requiring suicidal concerns being a mandatory reporting should be removed. The purpose of peer support is for officers to have the confidential means to address thoughts of suicide, as well as other mental health issues, without any negative impact on their employment. Mandatory reporting covers criminal behavior not allowed by law enforcement. Suicide should not be criminalized because it will discourage officers to come forward if they had suicidal ideation.

### **ALTERNATIVES**

As noted by DOH, “The International Association of Chiefs of Police recognizes that smaller law enforcement agencies may be unable to sustain peer support programs and recommends that larger police departments could meet their peer support needs via partner programs (<https://www.theiacp.org/resources/peer-support-guidelines>).”

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Law enforcement is an inherently high stress occupation. Officers experiencing high levels of stress, especially around traumatic episodes more frequent in that profession than in most others, might not get the help that they need.

LAC/sb