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FISCAL IMPACT REPORT

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| SPONSOR <u>Brandt</u> | LAST UPDATED _____ |
| | ORIGINAL DATE <u>2/5/2025</u> |
| | BILL |
| SHORT TITLE <u>Use of Phone Location for 911 Calls</u> | NUMBER <u>Senate Bill 67</u> |
| | ANALYST <u>Tolman</u> |

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

| Agency/Program | FY25 | FY26 | FY27 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|----------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------------------|---------------|
| DPS | Indeterminate but minimal | Indeterminate but minimal | Indeterminate but minimal | Indeterminate but minimal | Recurring | General Fund |

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Relates to Senate Bill(s) 18 and 137

Sources of Information

LFC Files

Agency Analysis Received From
 New Mexico Attorney General (NMAG)
 Department of Finance and Administration (DFA)
 Department of Information Technology (DoIT)
 Office of Broadband Access and Expansion (OBAE)
 Regulation and Licensing Department (RLD)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of Senate Bill 67

Senate Bill 67 (SB67) seeks to amend the Enhanced 911 Act, Section 63-9D-3 NMSA 1978, to require a wireless service provider or internet service provider to provide the location information regarding a device used to make a 911 call to requests from law enforcement agencies for the purpose of responding to situations that involve the risk of death or serious physical harm.

Section 1 amends Section 63-9D-3 NMSA 1978 to replace the term “911 call” with “911 service communication”, adding the clause “an equivalent emergency phone number or through the use of an internet service” to the definition of “911 service communication,” and replacing the term “call taker” to “dispatcher.”

Section 2 would add a new section to the Enhanced 911 Act, which would require an internet or wireless service provider to provide location information for a device used to make a 911 service communication to a law enforcement agency or public safety answering point when responding to a 911 communication or emergency situation that involves the risk of death or serious physical harm. This section would also allow an internet or wireless service provider to establish protocols for voluntarily disclosing communication location information. It would also prohibit any claims of relief being filed against internet or wireless service providers or another person for acting in good faith under this section. The Department of Public Safety (DPS) would be required to obtain contact information from all internet service and wireless service providers authorized to do business in this state to facilitate requests from a law enforcement agency or a public safety answering point on behalf of a law enforcement agency for communication location information under this section. DPS would then be required to disseminate the contact information to each law enforcement agency and public safety answering point in the state.

Section 3 amends Section 63-9D-10 NMSA 1978 to replace the term “911 calls” with “911 service communications.”

Section 4 amends Section 63-9D-11 NMSA 1978 to replace the term “call” with “communication” and the term “call initiated to 911” with “911 service communication.” A new subsection is added, which states that private listing subscribers waive the privacy afforded to nonlisted or nonpublished numbers to the extent that “the location information for a device used to make a 911 service communication is furnished to a law enforcement agency, a public safety answering point or an emergency responder to respond to a 911 service communication or to an emergency situation that involves the risk of death or serious physical harm.”

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

Agencies report that SB67 is likely to have a minimal or indeterminable fiscal impact on them. The Department of Public Safety (DPS) could experience minimal operational and administrative impacts due to the bill’s requirement to collect and disseminate provider contact information. The Department of Information Technology (DoIT) notes there could be a fiscal impact if they are considered an “internet service provider” or “wireless service provider” under the provisions of this bill, but due to lack of definitions of these terms in the bill, the fiscal impact is indeterminate.

SIGNIFICANT ISSUES

According to the most recent *National 911 Annual Report: 2021 Data*, New Mexico ranks highest in the nation for the number of 911 calls, with 2.6 million total 911 calls in 2021 and 1,169 calls per 1,000 residents. Both Department of Finance and Administration (DFA) and DPS note that the passage of SB67 could enhance emergency response times, which may require real-time location data for effective response to situations involving death or serious bodily harm, since warrant applications or post-disclosure procedures would not be needed in these cases. DFA also notes that originating service providers that allow customers to make 911 calls are required by the Federal Communications Commission to transmit location information to the correct public safety answering point and that originating service providers in New Mexico are

already implementing next generation 911 location capabilities.

DFA notes that SB67 seeks to address post 911 call information requests, which likely aligns more with the Electronic Communications Privacy Act rather than the Enhanced 911 Act, which governs incoming 911 calls to a public safety answering point. DFA points out that the Electronic Communications Privacy Act, 10-16F NMSA 1978, already provides a framework for emergency data access, privacy protections, and accountability mechanisms. DFA notes:

Existing provisions under Section 10-16F-4 NMSA 1978 allow law enforcement to access electronic information, including location data, during emergencies with judicial oversight and transparency safeguards. SB67 does not meaningfully expand upon these provisions. Additionally, the bill lacks explicit safeguards, such as warrant requirements and delayed notification orders, which are key components of Section 10-16F NMSA 1978. This absence raises concerns about privacy and accountability. Furthermore, the overlap between SB67 and Sections 10-16F-1 to 10-16F-6 NMSA 1978 risk creating legal confusion and redundancy, potentially complicating implementation.

Multiple agencies including DFA, DoIT, and the New Mexico Attorney General (NMAG) note that while SB67 replaces multiple terms, definitions for these are likely needed. For example, DFA notes that replacing “call” with “dispatch” within the definition of “enhanced 911 equipment” could create confusion, since call handling and dispatch are two separate systems within a public safety answering point.

NMAG notes that SB67 inconsistently uses the terms “user location,” “communication location,” and “device [location]”. Furthermore, the term “location information” should be defined in the bill since, without additional definition, SB67 is unclear as to whether the location of a device after the termination of a 911 service communication must be disclosed upon request by a law enforcement agency in situations that involve the risk of death or serious physical harm or only the location of that device during the 911 service communication. Further, NMAG notes that the phrase “to the agency” in the new subsection (A) of Section 2 creates uncertainty as to whom a response must be given by an internet service or wireless service provider. In the same new subsection (A) of Section 2, NMAG notes that location information is to be provided “upon request,” but does not specify how much time an internet service or wireless service provider may take to provide the requested information. Additionally, NMAG notes that new language in Section 4 makes reference to an “an emergency responder” for which location information for a device used to make a 911 service communication must be furnished differs from that on Section 2, in which an “an emergency responder” is not similarly mentioned as a recipient for location information for a device that an internet service or wireless service provider must provide.

DoIT notes that SB67 does not define “serious physical harm”. The term “great bodily harm” is defined under the Criminal Code, Section 30-1-12(A) NMSA 1978, which defines, “an injury to the person which creates a high probability of death; or which causes serious disfigurement; or which results in permanent or protracted loss or impairment of the function of any member or organ of the body.” DoIT suggests using the same term as used in the criminal code since law enforcement agencies are already accustomed to using that standard.

DoIT suggests that SB67 needs to define the terms “internet service provider” or “wireless service provider”. For example, DoIT operates internet and radio networks used by public entities, however, DoIT does not have access to the location information available to a traditional internet or wireless service provider. Therefore, because the terms are not defined, it is unclear

whether DoIT would be obligated to provide location information upon request from law enforcement agencies for the purpose of responding to situations that involve the risk of death or serious physical harm but would not be able to comply with the proposed law. DoIT suggests that the definition should make clear that only those “internet or wireless service” providers who have access to real time location information are subject to the obligations of the bill.

ADMINISTRATIVE IMPLICATIONS

DPS would need to establish protocols for collecting and maintaining a current, updated list of service providers for dissemination to other public safety answering points.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB67 relates to Senate Bill 137, which seeks to update the Enhance 911 Act by updating definitions due to technological advancements, increasing the surcharge, and removing the term “enhanced” from the entire act.

SB67 relates to Senate Bill 18, which seeks to create the crime of swatting and the role of public safety agencies, including public safety answering points, in handling false or misleading reports.

TECHNICAL ISSUES

NMAG highlights that the preamble of SB67 states a different purpose than new subsection (D) in Section 2 of the bill. The preamble states, “Requiring the department of public safety to collect contact information from internet service providers and wireless service providers and disseminate that information to internet service and wireless service providers.” However, the new subsection (D) in Section 2 states, “The department of public safety shall obtain contact information from all internet service and wireless service providers ... the department of public safety shall disseminate the contact information to each law enforcement agency and public safety answering point in this state.”

ALTERNATIVES

An alternative is to amend the Electronic Communications Privacy Act, Section 10-16F NMSA 1978, to avoid potential redundancy and legal conflicts while addressing any gaps in responding to 911 service communications identified in SB67.

RT/SL2/sgs