

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 3/04/17

SPONSOR HJC LAST UPDATED _____ HB 235/HJCS

SHORT TITLE Peace Officer Survivor Benefits SB _____

ANALYST Rogers

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
\$0.0	(Potentially substantial)	(Potentially substantial)	Nonrecurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Corrections Department (NMCD)
 Administrative of the District Attorney (AODA)
 Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

The House Judiciary Committee (HJC) substitute for House Bill 235 amends the Peace Officers' Survivors Supplemental Benefits Act ("Act") by extending supplemental death benefits to NMCD correctional officers and county jailers who are killed in the line of duty. The Act currently allows defined family members of peace officers killed in the line of duty to receive \$250 thousand of supplemental death benefits.

Benefits are paid out of the already created Peace Officers' Survivors Fund. A review committee – consisting of the attorney general, the chief of the New Mexico State police, and the state president of the fraternal order of police or their designees – determines whether a peace officer has been killed in the line of duty.

Pursuant to the Act, the money is to be paid to beneficiaries, as defined in the bill. The substitute bill defines the “surviving children” of any peace officer killed in the line of duty as:

- A child who is either:

- A biological child of the peace officer, including children born after the death of the officer;
- An adopted child of the officer; or
- A child of the officer's surviving spouse; and
- Who, at the time of the officer's death, is:
 - 18 years of age or under;
 - Over 18 years of age, but a full time student under the age of 24 enrolled in a post-secondary college, university, or vocational or technical education program;
 - Over 18 years of age and incapable of self-support because of a physical or mental disability.

Additionally, the HJC substitute distributes benefits to beneficiaries as follows:

- (1) One hundred percent of the benefit shall be paid to the surviving spouse if the peace officer is married and has no surviving children;
- (2) if the peace officer is married and has surviving children, fifty percent of the benefit shall be paid to the surviving spouse and fifty percent shall be paid to the surviving children in equal shares;
- (3) if the peace officer is not married and has surviving children, one hundred percent of the benefit shall be paid to the surviving children in equal shares;
- (4) if the peace officer is not married and has no surviving child, the benefit shall be paid to a beneficiary or beneficiaries designated by the peace officer in the most recently executed:
 - a. designation of beneficiary on file at the time of death with the peace officer's public safety agency, organization or unit, in shares according to the designation, or in equal shares if there is no designation of shares;
 - b. life insurance policy on file at the time of death with the peace officer's public safety agency, organization or unit, if the peace officer has not designated a beneficiary pursuant to Subparagraph (a) of this paragraph; or
 - c. public employees retirement association survivor beneficiary designation form on file at the time of death with the peace officer's public safety agency, organization or unit, if the peace officer has not designated a beneficiary pursuant to Subparagraph (a) or (b) of this paragraph;
- (5) if there is no beneficiary qualifying under Paragraph (1), (2), (3) or (4) of this subsection but there are surviving children who would qualify but for their age, the benefit shall be paid to them in equal shares; or
- (6) if there is no beneficiary qualifying under Paragraph (1), (2), (3), (4) or (5) of this subsection, the benefit shall be paid in equal shares to the surviving parent or parents of the peace officer.

FISCAL IMPLICATIONS

Since the Santa Rosa riots in 1999 where one correctional officer died, no correctional officers have been killed in the line of duty in New Mexico. Additionally, no correctional officers were killed in the riot that occurred in 1980.

Current law requires that transfers to the peace officer's survivors fund be made out of Law Enforcement Protection Fund (LEPF) balances as necessary to maintain a minimum \$350 thousand balance in the survivors' fund. It is difficult to project transfer amounts for a given fiscal year. When a law enforcement officer is killed in the line of duty, the officer's family

receives a \$250 thousand payment. Recently, in one year, \$750 thousand was paid to surviving families. This fiscal year, \$1 million is due to be paid to surviving families after four police officers were killed in the line of duty throughout the state.

Adding correctional officers as eligible for payment if killed in the line of duty could require additional transfers from the LEPF to allow sufficient funds to be paid from the Peace Officer's Survivors Fund. Transfers from the LEPF decrease LEPF reversions to the general fund.

Law Enforcement Protection Fund Information

The LEPF in the state treasury is funded pursuant to the New Mexico Insurance Code from 10 percent of all money received from fees, licenses, penalties and taxes from life, general casualty, and title insurance business, except for money received from health insurance premium surtaxes. The funds are paid monthly to the state treasurer and credited to the LEPF.

Funds from the LEPF are used for costs associated with advanced law enforcement planning and training, the repair and purchase of law enforcement apparatus and equipment, up to 50 percent of the cost of an officer's salary while they participating in basic law enforcement training under certain circumstances, and for match or contribution requirements for the receipt of federal funds relating to criminal justice programs. Law also requires funds from the LEPF be used to maintain a \$350 thousand minimum balance in the Peace Officers' Survivors Fund.

LFC staff analysis shows that historical reversions from the LEPF were \$7.6 million in FY15 and \$15.3 million in FY16. December revenue estimates project that \$18.2 million will be reverted in FY17. These amounts do not include the estimated \$5.5 million DFA will encumber for FY18 distributions.

Historical Reversions from the LEPF	
FY10	\$ 9,920.2
FY11	\$ 9,089.3
FY12	\$ 8,291.1
FY13	\$ 4,575.5
FY14	\$ 3,936.3
FY15	\$ 7,641.5
FY16	\$ 15,277.2
FY17 (projected)	\$ 18,200.0

Source: Audit Reports

SIGNIFICANT ISSUES

The bill does not include the secretary of corrections as a member of the survivors supplemental death benefits review committee; the remaining committee members will not receive any input or information from NMCD during their reviews of deaths involving NMCD corrections officers. This could result in the committee making a recommendation to deny and in the ultimate denial of survivor benefits to NMCD corrections officers killed in the line of duty.

It is not known why correctional officers were not included as eligible for benefits from the Peace Officer's Survivors Fund originally. However, other states include correctional officers in

their survivor benefits similar to those in this bill, including Massachusetts, Florida, Virginia, Texas, and Ohio.

NMCD explains correctional officers and jailers throughout the state risk their lives daily to protect the citizens of New Mexico. Correctional officers work daily and directly with dangerous jail inmates and prisoners in many capacities, including ensuring inmates go to programming, preventing or controlling drug and other illegal activity, preventing escapes, and improving and maintaining the safety and security of correctional facilities.

NMCD goes on to explain many inmates are serving long prison sentences or otherwise believe that they have little or nothing to lose by attempting to kill the officers and jailers with whom they interact. When NMCD officers and jailers are killed in the line of duty, their families also suffer grievously, both emotionally and economically. Correctional officers confer substantial public safety benefits on the public and their families make the ultimate sacrifice if they are killed in the line of duty.

Staff working in correctional institutions are typically unarmed in a dangerous environment. In February 2017, a correctional officer was killed in the line of duty in Delaware after an almost two day prison standoff.

TR/jle/sb