

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 2/5/2018

SPONSOR Rehm LAST UPDATED _____ HB 31

SHORT TITLE Peace Officers in Victims of Crime Act SB _____

ANALYST Edwards

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Fiscal Implications	See Fiscal Implications			

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 188.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
Crime Victims Reparation Commission (CVRC)

SUMMARY

Synopsis of Bill

House Bill 31 amends Section 31-26-3 NMSA 1978, within the Victims of Crime Act (VOCA), to augment the definition of “criminal offense” to include the following crimes:

- Aggravated assault upon a peace officer (Section 30-22-22 NMSA 1978)
- Assault with intent to commit a violent felony upon a peace officer (Section 30-22-23 NMSA 1978)
- Battery upon a peace officer (Section 30-22-24 NMSA 1978)
- Aggravated battery upon a peace officer (Section 30-22-25 NMSA 1978)

HB 31 also clarifies the specific inclusion of the following with regard to crimes currently contained within the definition:

- Negligent arson resulting in death or bodily injury, as provided in Paragraph (1) of Subsection G, rather than Subsection B, of Section 30-17-5 NMSA 1978
- Voluntary manslaughter, as provided specifically in Subsection A of Section 30-2-3 NMSA 1978
- Involuntary manslaughter, as provided specifically in Subsection B of Section 30-2-3

NMSA

- Abandonment of a child, rather than just abandonment, or abuse of a child, as provided in Section 30-6-1 NMSA 1978.

FISCAL IMPLICATIONS

The AOC explains “requirements under the VOCA pertaining to inquiries and notifications to be made by the court may be unnecessary and repetitive in instances where a victim is a peace officer, causing unnecessary staff and court time and resources to be spent. There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the Judicial Branch would be proportional to the enforcement of this law and commenced prosecutions where the victim is a peace officer.”

CVRC already assists peace officers with any expenses actually and reasonably incurred as a result of the victim’s injury or death; we also take into account collateral sources, such as personal insurance and workers compensation.

SIGNIFICANT ISSUES

The AOC provided the following analysis:

Section 31-26-2 NMSA 1978 states that it is the purpose of the VOCA to assure that:

- A. the full impact of a crime is brought to the attention of a court;
- B. victims of violent crimes are treated with dignity, respect and sensitivity at all stages of the criminal justice process;
- C. victims' rights are protected by law enforcement agencies, prosecutors and judges as vigorously as are the rights of criminal defendants; and
- D. the provisions of Article 2, Section 24 of the constitution of New Mexico are implemented in statute.

Additionally, Section 31-26-4 NMSA 1978 provides victims with the following rights:

- A. be treated with fairness and respect for the victim's dignity and privacy throughout the criminal justice process;
- B. timely disposition of the case;
- C. be reasonably protected from the accused throughout the criminal justice process;
- D. notification of court proceedings;
- E. attend all public court proceedings the accused has the right to attend;
- F. confer with the prosecution;
- G. make a statement to the court at sentencing and at any post-sentencing hearings for the accused;
- H. restitution from the person convicted of the criminal offense that caused the victim's loss or injury;
- I. information about the conviction, sentencing, imprisonment, escape or release of the accused;
- J. have the prosecuting attorney notify the victim's employer, if requested by the victim, of the necessity of the victim's cooperation and testimony in a court proceeding that may necessitate the absence of the victim from work for good

- cause;
- K. promptly receive any property belonging to the victim that is being held for evidentiary purposes by a law enforcement agency or the prosecuting attorney, unless there are compelling evidentiary reasons for retention of the victim's property; and
- L. be informed by the court at a sentencing proceeding that the offender is eligible to earn meritorious deductions from the offender's sentence and the amount of meritorious deductions that may be earned by the offender.

There is a question as to whether the purpose of the VOCA reveals an intent and a necessity to protect the rights of a peace officer, engaged in law enforcement and/or vested by law with a duty to maintain public order or to make arrests for crime. (See definition, “peace officer,” Section 30-1-12 NMSA 1978.) For example, a stated purpose of the VOCA is to assure that “victims' rights are protected by law enforcement agencies, prosecutors and judges as vigorously as are the rights of criminal defendants”.

There is also a question as to whether it is necessary to extend the Section 31-26-4 NMSA 1978 rights to a peace officer, who may already be entitled to workers compensation and restitution while in the lawful discharge of the officer's duties. Additionally, the Section 31-26-8 NMSA 1978 procedures to be undertaken by the investigating law enforcement agency may also be unnecessary in instances where the victim is a peace officer.

If there are specific rights within the VOCA that are not already extended to a peace officer in the lawful discharge of the officer's duties, HB 31 could be tailored to ensure those rights are extended to peace officers in lawful discharge of their duties.

AMENDMENTS

CVRC states the bill would include peace officers in the Victim of Crime Act, but does not list this change under enumerated crimes (31-22-8 NMSA 1978). If this bill is to assist peace officers with victim compensation, the enumerated crimes would also need to be amended.

TRE/al