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## FISCAL IMPACT REPORT

	O'Neill/Williams	<b>ORIGINAL DATE</b>	1/26/21	
<b>SPONSOR</b>	Stapleton	<b>LAST UPDATED</b>	1/27/21	<b>HB</b>
			2/05/21	_____
<b>SHORT TITLE</b>	Racial Impact of Certain Legislation			<b>SB</b> 81/aSJC
				_____
		<b>ANALYST</b>	Glenn	
				_____

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

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	No Fiscal Implications					

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SB 55

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Sentencing Commission (NMSC)

Office of African American Affairs (OAAA)

### SUMMARY

#### Synopsis of Bill of SJC Amendment

The Senate Judiciary Committee amendments to Senate Bill 81 change the term “gender” to “gender identity” throughout the bill.

#### Synopsis of Original Bill

Senate Bill 81 requires NMSC to include an assessment of racial impact in its statutorily required reports on the fiscal impact of bills that create a new crime, repeal an existing crime, or affect the period of imprisonment for an existing crime. The assessment of a bill’s racial impact must include information regarding any unique or disproportionate impact on any race, gender or sexual orientation of persons in the state; statistical analysis of the projected impact of the bill on race, gender or sexual orientation; any unintended consequences that would impact race, gender or sexual orientation; the impact of the proposed legislation on correctional facilities and services for persons of any race, gender or sexual orientation; the impact on recidivism rates for any race, gender or sexual orientation; and information regarding any unique or disproportionate impact

and statistical analysis of the projected impact of the proposed legislation on each judicial district in the state.

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

### **FISCAL IMPLICATIONS**

OAAA and NMSC did not report that the bill had any fiscal implications for their budgets or operations.

### **SIGNIFICANT ISSUES**

NMSC explains that, in 2019, the Sentencing Project reported that five states – Iowa, Connecticut, Florida, Oregon, and New Jersey – have implemented mechanisms for the preparation and consideration of racial impact statements, and that the Minnesota Sentencing Guidelines Commission develops racial impact statements without statutory guidance. As the Sentencing Project noted:

Racial impact statements are a tool for lawmakers to evaluate potential disparities of proposed legislation prior to adoption and implementation. Analogous to fiscal impact statements, they assist legislators in detecting unforeseen policy ramifications. Policymakers may then be able to modify legislation that would worsen existing racial disparities. Practically speaking, it is important to address a policy's unwarranted effects before it is adopted, as it is more difficult to reverse sentencing policies once they have been implemented.

As of the date of that report, eight other states had considered adopting similar legislation. (See <https://www.sentencingproject.org/publications/racial-impact-statements/>)

NMSC states that SB81 would spur the provision of important information to lawmakers as they consider criminal justice legislation. According to NMSC, there currently is insufficient data on the intersection of race and ethnicity in the New Mexico criminal justice system. While the Corrections Department has good data, data is lacking, questionable, or absent in other aspects of the system. NMSC is presently working on methods to integrate racial and ethnic information throughout the state's criminal justice system, and this bill would be an important complement to that work.

OAAA notes that racial impact assessments have been highlighted as an innovative tool for improving the policy making process. The use of racial impact assessments is recent and not widely used in legislation, but there is evidence that they are beneficial in moving forward racial justice. According to the Annie E. Casey Foundation, using a racial equity impact assessment focuses the decisions on using data and facts rather than biases or assumptions. Racial assessments provide a systematic way of including voices of marginalized communities who are likely to be most impacted by the decisions of policy makers. They can also highlight unintended consequences that policy makers may not understand otherwise.

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

SB81 relates to SB55, which requires the Department of Cultural Affairs to prepare a similar impact statement for proposed legislation.

BG/sb/al/rl