

LFC Requester:

**AGENCY BILL ANALYSIS
2019 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date Feb 13, 2019
Bill No: HB533

Sponsor: Chasey and Cadena
Short Title: Notice of Crime Victim
Reparation & Procedure

Agency Name and Code Number: Administrative Office of the
District Attorneys (AODA) 264
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Gmail.com

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		
0	550	nonrecurring	general

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
0	0	0	n/a	n/a

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	0	Minimal	0	0	nonrecurring	general

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: none found

Duplicates/Relates to Appropriation in the General Appropriation Act: none found

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB533 amends provisions in the Crime Victims Reparation Act and the Victims of Crime Act, and makes an appropriation.

Crime Victims Reparation Act

Section 1 amends Section 31-22-7 NMSA 1978 to clarify that its provisions apply to “an act or omission constituting a crime.” It also changes the reporting requirements to allow the act or omission constituting a crime to be reported to a licensed medical, mental health or counseling provider or tribal health provider. It also expands the cooperation requirement, allowing orders to be issued if the commission “finds that the claimant or victim acted reasonably under the circumstances.”

Section 2 amends Section 31-22-14 NMSA 1978 to remove the requirement that the crime be reported to the police within 30 days after its occurrence. It also removes the reporting time limits for minor victims of abandonment or abuse, criminal sexual penetration and criminal sexual contact.

Victims of Crime Act

Section 3 amends Section 31-26-4 NMSA 1978, Victim’s Rights, to add that a victim has the right to be notified by law enforcement and the district attorney of the availability of and procedures to apply for crime victim reparation.

Section 4 amends Section 31-26-8 NMSA 1978 to require that the law enforcement agency investigating a criminal offense provide the victim (or a member of the victim’s family, if appropriate) with a written notification in a manner and form prescribed by the crime victims reparation commission of the availability of crime victim reparation and eligibility to apply.

Section 5 amends Section 31-26-9 NMSA 1978, to add to the information a district attorney must provide to the victim within seven working days after filing a formal charge. Under HB533, the district attorney must provide the victim with a written notification in a manner and form prescribed by the crime victims reparation commission of the availability of crime victim reparation and eligibility to apply.

Section 6 amends Section 36-1-26 NMSA 1978 to require the director of the administrative office of the district attorneys to prepare and distribute forms for collecting victim impact information.

Appropriation

Section 7 appropriate \$550,000 from the general fund to the crime victims reparation fund for expenditure in fiscal year 2020 to cover additional crime victims seeking reparations pursuant to the Act.

Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

The AODA and individual district attorneys have additional responsibilities under HB533, which will involve additional time (and cost). The AODA is charged with preparing and distributing form for collecting victim impact information. The district attorneys must provide victims written notification of the availability of crime victims reparation and eligibility to apply.

SIGNIFICANT ISSUES

HB533 expands eligibility for victims reparations by:

- Recognizing the report of an act or omission constituting a crime when it is made to a licensed medical, mental health or counseling provider or tribal health provider, with no time limit on making such a report;
- Recognizing a report made to police within a “reasonable time” and removing the 30 day reporting requirement;
- Removing the time limits for reports of certain crimes against a minor.

In addition, HB533 amends the provision that the claimant or victim fully cooperate with the appropriate law enforcement agencies, allowing a reparations order to be issued if the commission finds that the claimant or victim acted reasonably under the circumstances.

HB533 adds provisions to ensure that victims will be notified of the availability of, and procedures to apply for, crime victims reparations. Law enforcement must provide written notification. The district attorney must include such written notification in the packet of materials the district attorney must already provide to a victim within seven days of filing a formal charge against the accused.

PERFORMANCE IMPLICATIONS

There may be a significant increase in application for reparation, because many of the time limits have been removed. Under current law, there are strict time limits for the victim to report the

offense (and the report must be to the police, unless the offense was to a child). It is not known whether the \$550,000 appropriation will be sufficient to cover the additional claims.

It may be extremely difficult for the commission to determine whether reparations should be ordered in very old cases (especially if they were not reported to authorities at the time), in cases which were never reported to law enforcement (and therefore were not investigated), and in cases in which the victim or claimant did not cooperate with law enforcement.

ADMINISTRATIVE IMPLICATIONS

There are administrative implications for the AODA and the district attorneys.

The AODA must prepare and distribute forms for collecting victim impact information.

The district attorneys will need to add notice form (prepared by the crime victims reparation commission) to the packet of information provided to victims.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None found.

TECHNICAL ISSUES

Section 1 provides that a report be made to the police “in a reasonable time,” but it does not impose that reasonable time requirement on a report made to a licensed medical, mental health or counseling provider or tribal health provider.

Section 4 requires law enforcement to provide the victim “or, if appropriate, a member of the victim’s family” with written notice regarding reparations. Presumably, this is to recognize that it may be appropriate to give notice to a family member instead of the victim, if the victim is a minor, is incapacitated, or deceased. Section 5 requires the district attorney to provide such notice to the victim, but is silent on providing notice to the victim’s family.

It’s not clear why Section 1 amends “ground” to make it plural in Section 31-22-7(E) NMSA 1978.

OTHER SUBSTANTIVE ISSUES

None found.

ALTERNATIVES

None proposed.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

None proposed.