

NOTE: As provided in LFC policy, this report is intended for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used in any other situation.

Only the most recent FIR version, excluding attachments, is available on the Intranet. Previously issued FIRs and attachments may be obtained from the LFC office in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR:	Wilson	DATE TYPED:	01/27/00	HB	
SHORT TITLE:	Insurance Coverage for Foster Parents			SB	152
				ANALYST:	Carrillo

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY00	FY01	FY00	FY01		
			\$ (1,200.0)	Recurring	Public Liability Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to

SOURCES OF INFORMATION

General Services Department

Corrections Department

Administrative Office of the Courts

New Mexico Retiree Health Care Authority

Administrative Office of the District Attorneys

Children, Youth and Families Department

New Mexico Health Policy Commission

SUMMARY

Synopsis of Bill

Senate Bill 152 proposes to amend Section 15-7-3 NMSA 1978 to expand the duties of the Risk management Division (RMD) of the General Services Department (GSD) to require the purchase of insurance coverage for foster parents. Currently, foster parents are included in the definition of "public employees". The separate liability insurance coverage is a minimum of \$100.0 per occurrence for foster parents providing care to children. The premium costs shall be allocated to and paid by the departments having legal custody of the foster children and contracts with foster parents who care for them. The effective date is January 1, 2001. If coverage is not available from RMD, a foster parent who purchases liability insurance coverage shall be reimbursed by the department with the contract.

The agencies referenced in the bill are: the Human Services Department, the Corrections Department, the Department of Health, and the Children, Youth and Families Department.

Significant Issues

According to the GSD staff, covering foster parents as if they are public employees causes conflicts in claims management. The annual cost of coverage for foster parents has increased for the Children, Youth and Families Department (CYFD) from approximately \$.5 million five years ago to more than \$2 million

currently. The increase is due primarily to the incidence of alleged sexual misconduct cases. The state must hire multiple attorneys for these cases: one for the agency and its employees, one for the foster parents, and sometimes one to file a declaratory action to determine coverage on the foster parent.

The Administrative Office of the District Attorneys comments: District attorneys are responsible for criminal prosecution in child abuse cases. This bill may pay for the criminal defense of foster parents charged with abandonment or abuse of a child.

FISCAL IMPLICATIONS

GSD staff states this legislation will reduce the public liability coverage paid by the Children, Youth and Families Department approximately \$1.2 million.

ADMINISTRATIVE IMPLICATIONS

GSD staff notes fewer contract attorneys would be needed.

OTHER SUBSTANTIVE ISSUES

The staff from GSD provides the following comments: New Mexico's coverages for foster parents are far broader and more expensive than other states. Of 19 states responding to an RMD survey, 6 states provided no coverage and the remaining 13 provided a lower amount of coverage. Of these 13 states, many have only limited or no coverage for sexual misconduct. By including foster parents as "public employees", New Mexico is in a difficult position of providing very broad coverages to foster parents 24 hours per day. The normal exposure for a public employee is eight hours per day.

GSD further states: RMD will try to secure coverage for foster parents, but individual foster parents who want higher liability coverage to cover sexual misconduct could be responsible to procure it and possibly reduce the state's premiums for all foster parent coverage.

WJC/gm