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FISCAL IMPACT REPORT

SPONSOR: Crook DATE TYPED: 02/07/01 HB 216
 SHORT TITLE: Wrongful Death Judgments SB _____
 ANALYST: Rael

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY01	FY02			
No Fiscal Impact				

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Administrative Office of the Courts (AOC)
 Administrative Office of the Attorney General (AOAG)

SUMMARY

Synopsis of Bill

The bill allows for an increased share of the proceeds to the surviving spouse from a wrongful death judgment. All other changes are technical in an effort to make the law reflect modern natural language.

Significant Issues

When there are adult children and an elderly surviving spouse of the decedent, the bill would allow the surviving spouse to receive a significant proportion of the proceeds. Before, the proceeds were divided equally among the surviving spouse and children. In some instances, this resulted in the bulk of the award distributed to adult children with independent means, while leaving an elderly surviving spouse with very little.

FISCAL IMPLICATIONS

To the extent that the bill redistributes wealth from adult children with independent means to a poor surviving spouse, it may result in a slight decrease in personal income tax revenue. However, since the circumstances under which this statutory amendment will apply will be limited (and it is certainly possible that it will have the effect of redistributing wealth away from needy children and toward a wealthy surviving spouse in certain circumstances) the fiscal implications are likely to be minuscule.

OTHER SUBSTANTIVE ISSUES

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The New Mexico Wrongful Act has been criticized for its lack of a provision that prohibits an individual who has killed the decedent from profiting from his crime. The Probate Code provides that “an individual who feloniously and intentionally kills the decedent forfeits all benefits.” In other words, a beneficiary who has killed the decedent forfeits his right to inherit any wealth from the decedent. However, the New Mexico Court of Appeals has interpreted the provision to apply only to probate matters, and not wrongful death judgments. See Aranda v. Camacho, 122 N.M. 763 (Ct. App. 1997); NMSA 1978 § 45-2-803.

FAR/njw