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FISCAL IMPACT REPORT

ORIGINAL DATE 02/27/13

SPONSOR Thomson LAST UPDATED _____ HB 557

SHORT TITLE Access to Morbidity or Mortality Info SB _____

ANALYST Esquibel

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Minimal	Minimal	Minimal	Recurring	General Fund, Other State Funds

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the District Attorneys (AODA)
 Attorney General's Office (AGO)
 Department of Health (DOH)

SUMMARY

Synopsis of Bill

House Bill 557 (HB 557) proposes to amend the Public Health Act to allow the representative of the estate of a deceased person access to information relating to the deceased person that has been obtained under the authority of the Secretary of the Department of Health (DOH) related to medical research.

FISCAL IMPLICATIONS

The bill contains no appropriation.

Under the provisions of the bill, the DOH could incur additional costs for extra staff time (administrative and technical), redacting, copying, communicating, and mailing. Additionally, the DOH legal counsel might be required to interpret issues related to the proposed changes.

SIGNIFICANT ISSUES

The DOH indicates the bill includes the potential for representatives of decedents to obtain identified information that the DOH Secretary authorized but that was obtained from other entities (e.g., hospitals, New Mexico Office of the Medical Investigator, private healthcare providers, etc.) that the representatives would not otherwise be able to obtain given protections that are in place by those other entities. In many cases, the health care or medical research was not directly conducted by the DOH and would be subject to interpretation by third parties. By making it mandatory to release records to the representative of the estate of a deceased person, the DOH may be in a position of releasing records without the knowledge or consent of the originators of the records. The DOH is concerned information released could be misinterpreted or negatively impact a large scale investigation.

TECHNICAL ISSUES

The DOH indicates the bill does not define “medical research.” Therefore, the bill is not clear which the DOH records approved by the Secretary (e.g., surveillance information routinely collected, chemoprophylaxis provided during outbreak control, etc.) would be subject to the proposed changes in the bill.

OTHER SUBSTANTIVE ISSUES

The DOH’s Division of Health Improvement’s (DHI) internal mortality review process and records are confidential, but this review is a quality improvement process similar in nature to peer review. The mortality review however, focuses on systems like a root cause analysis and is not intended to be an investigation that focuses on individual behavior or culpability. The mortality reviews are quality assurance exercises which would be stymied without cooperation and frank discussion, the focus of which is improvement of a system of care.

Much of the information reviewed at a mortality review would be accessible to a personal representative through other means and based on other rights they would have under HIPAA and other confidentiality laws, so a personal representative would have access to information about the care of the deceased individual.

RAE/svb