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FISCAL IMPACT REPORT

ORIGINAL DATE 01/23/13
 SPONSOR SPAC LAST UPDATED 02/20/13 HB _____
 SHORT TITLE Probate Code Death of Protected Person SB 112/SPACS
 ANALYST Jorgensen

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		
None	None		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
 Attorney General’s Office (AGO)
 Department of Health (DOH)

SUMMARY

Synopsis of Bill

Senate Public Affairs Committee substitute for Senate Bill 112 proposes to amend the probate code to expand the authority and responsibility of a court appointed guardian, in cases where there is no court appointed conservator, to extend past the death of the incapacitated person for up to six months as opposed to the original version of one year or until the appointment of a personal representative. Under current law, the court appointment of a guardian terminates at the time of the death of the incapacitated person. SB 112 would also extend the same authority and responsibility to court appointed conservators for up to six months as well.

SB 112 adds an additional requirement that guardians and conservators with the new authority and responsibilities anticipated by the legislation also provide notice to and consult with any relatives known to the guardian/conservator before exercising authority after the death of the incapacitated person.

The specific responsibilities and authorities extended remain the same as in the original SB 112, however under the “guardian” section cremation and burial are separated while under the conservator section they remain in the same provision.

SB112s adds the term adult child as a relative and also adds a definition for adult child.

SIGNIFICANT ISSUES

According to the DOH, New Mexico law allows for the appointment of a corporate guardian. The extended authority and responsibility may impact the availability of corporate guardians as a “guardian of last resort” if the provisions create higher liability.

Senate Bill 112 may impact DOH’s long term care facilities and people on the Developmental Disabilities (DD) waiver. Often individuals in DOH facilities and on the waiver have probate code guardians appointed. Senate Bill 112 may assist in the closure of matters after an individual’s death because the facility would still have a point of contact that has decision making authority after the client’s death, which is currently unavailable. Senate Bill 112 may generate more requests for autopsies and other mortality reviews from the DOH Developmental Disabilities Supports Division.

NCJ/blm