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FISCAL IMPACT REPORT

ORIGINAL DATE 1/25/17
LAST UPDATED 2/14/17 **HB** 95/aHCPAC

SPONSOR Gallegos, DM

SHORT TITLE Child Support Judge Discretion **SB** _____

ANALYST Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Minimal	Minimal	Minimal	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Children, Youth and Families Department (CYFD)
 Human Service Department (HSD)

SUMMARY

Synopsis of House Consumer and Public Affairs Committee Amendment

Several words are added by the amendment to be certain that New Mexico judges making child support decisions use not only their discretion but also follow applicable law.

Synopsis of Original Bill

House Bill 95 amends New Mexico law regarding dissolution of marriage (Section 40-4-11.1 NMSA 1978). The major impact of the proposed changes would be to grant the judge adjudicating the child custody and support provisions of a dissolution of marriage to use discretion in determining the child support payments to be made in the case that the total gross income of the two parents exceeded the upper limit in the table usually followed. The table's current upper limit for gross income of the two parents is \$30,000/month, or \$360,000/year. House Bill 95 would specify that the judge would determine the obligation of each party in the instances where their total gross income exceeds that level, rather than leaving instructions to the judge unclear. With the enactment of House Bill 95, the judge would be advised to use her/his own discretion in these cases, as long as the obligation of the two parties was not lower than the amount specified for a total gross income of \$30,000/month.

House Bill 95 does not change the definitions of gross income and child support and what are to be included or excluded in each. It does not change Section 40-4-11.2 NMSA 1978, which states that judges may deviate from the child support guideline amounts specified in the table if they specify in written form why the guidelines in the table “would be unjust or inappropriate.”

There are two other changes made by provisions of House Bill 95:

- The first line on the table for very-low income parents would specify that for all parental incomes less than \$800/month, the same gross total incomes less than \$800/month, the same basic child support requirement would be made (\$100/month for the first child, \$150 per month if there were more than one child). Previously, it was not clear what the child support obligation would be if the parties’ total gross income was less than \$800/month.
- Worksheet B changes the terms “mother” and “father” to “parent” and “parent,” allowing for its use with same sex marriage dissolutions.

FISCAL IMPLICATIONS

AOC indicates “There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the prolonging of existing or institution of new proceedings to challenge the application of the judge’s discretion in determining child support obligations. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.”

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The amount of support to be paid at the income levels from \$0 to \$799 and greater than \$30,000 per month would not be addressed by the Child Support Guidelines Schedule Judges’ discretion to set support in these income categories would not be spelled out.

LAC/sb/jle