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FISCAL IMPACT REPORT

ORIGINAL DATE 1/25/19

SPONSOR Cook LAST UPDATED _____ HB 147

SHORT TITLE Unsworn Declaration Changes SB _____

ANALYST Torres

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0.0	Indeterminate but Minimal	Indeterminate but Minimal	Indeterminate but Minimal	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of Bill

HB 147 amends several sections of Chapter 44, Article 10 NMSA 1978 (currently the Uniform Foreign Unsworn Declarations Act) so that it applies to any unsworn declarations, regardless of where the declarant is located when making the unsworn declaration. Currently, Chapter 44, Article 10 only applies to unsworn declarations made by declarants who are outside of the United States. It allows these unsworn declarations to be used in some types of proceedings where the law might otherwise require or permit a sworn declaration.

Section 3 of HB 147 also adds subsection (B), (C), and (D) to § 44-10-3, which states that the Uniform Unsworn Declaration Act is applicable to the following:

- Unsworn statements made on or after July 1, 2019.
- A judicial proceeding commenced on or after July 1, 2019.
- A judicial proceeding commenced before July 1, 2019, unless the Court finds that provisions of the Act would substantially interfere with the effective conduct of the judicial proceeding or would prejudice the rights of the party.

HB 147 also amends the form for unsworn declarations in Section 44-10-6 to remove language requiring that the declarant state that they are located outside the boundaries of the United States and adding language that the declarant is swearing under penalty of perjury under the laws of New Mexico (as opposed to the current statute which only states “penalty of perjury under the law”).

HB 147 specifies that the effective date of the proposed changes is July 1, 2019.

FISCAL IMPLICATIONS

There will be minimal administrative costs for a statewide update, distribution and documentation of statutory changes. HB 147 has the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase. Courts will also need training on the implications of this bill. Judicial decision makers may also have to make findings as to whether the provisions of this bill should apply to cases filed prior to July 1, 2019, which may result in increased time spent on cases.

SIGNIFICANT ISSUES

The bill uses the text of the Uniform Unsworn Declarations Act, which was developed by the Uniform Laws Commission in July 2016. This Act allows the use of unsworn declarations made under penalty of perjury in state court proceedings. According to the Uniform Laws Commission, the Uniform Unsworn Declarations Act:

- harmonizes state and federal law since federal law already allows unsworn declarations to be used in federal court proceedings and to be given the same effect as a sworn declaration as long as it contains language that it is made under penalty of perjury; and
- Promotes consistency across states with regard to the use of unsworn declarations.

The American Bar Association approved the Uniform Unsworn Declarations Act on February 6, 2017.

IT/sb