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## FISCAL IMPACT REPORT

<b>SPONSOR</b>	<u>Ivey-Soto/Garcia, H</u>	<b>LAST UPDATED</b>	<u>3/3/2023</u>
		<b>ORIGINAL DATE</b>	<u>2/15/2023</u>
<b>SHORT TITLE</b>	<u>Probate Court Changes</u>	<b>BILL NUMBER</b>	<u>Senate Bill 248/aSHPAC/aSJC /aSFI#1</u>
		<b>ANALYST</b>	<u>Gray</u>

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact			

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)

New Mexico Attorney General (NMAG)

Aging and Long-Term Services Department (ALTSD)

#### No Response Received From

New Mexico Counties

## SUMMARY

### Synopsis of SFI#1 Amendment to Senate Bill 248

The Senate Floor Amendment 1 to Senate Bill 248 makes a grammatical correction by replacing the word “probated” with “probate.”

### Synopsis of SJC Amendment to Senate Bill 248

The Senate Judiciary Committee amendment to Senate Bill 248 makes a grammatical correction by eliminating a duplicate word (“as”) on page 4, line 9.

### Synopsis of SHPAC Amendment to Senate Bill 248

The Senate Health and Public Affairs Committee amendment to Senate Bill 248 contains mostly minor and technical revisions. The amendments include:

- Removing the first subsection, which is an introductory clause that cites the authority for the clause in the New Mexico Constitution;
- Empowering the probate court clerk to establish and publish hours for that court; and
- Empowering the probate court clerk to appoint deputy probate clerks.

## **Synopsis of Original Senate Bill 248**

Senate Bill 248 addresses issues related to probate courts. Changes contemplated under the bill include:

- Allowing any probate judge fill in for another probate judge who is excused, recused or out for an extended period of time;
- Aligning the probate judge election cycle so all judges are in the same cycle that matches the gubernatorial election cycle;
- Obligating county commissioners to provide facilities and furnishings for probate courts and the salaries for probate court judges;
- Enabling the Supreme Court to promulgate rules of practice and procedure for probate courts; and
- Repealing statute that punished a probate judge for performing any judicial function outside the county seat.

The full list of repealed sections under SB248 are:

- Section 34-7-5, governing the penalty for failing to hold court or keep the clerk's office at the county seat;
- Sections 34-7-6, county furnishes office and supplies for judge;
- 34-7-15, additional fees of clerks;
- 34-7-16 exclusivity of fees;
- 34-7-19 penalties for clerks;
- 34-7-20 record of decedents' estates;
- 34-7-21 record of bonds and wills;
- 34-7-23 oath of deputy clerks;
- 34-7-25 compensation of deputies to be paid by clerk; and
- 45-1-307 probate court powers.

The effective date of this bill is July 1, 2023.

## **FISCAL IMPLICATIONS**

There are no estimated fiscal implications.

## **SIGNIFICANT ISSUES**

Currently, 30 out of 33 probate judges are elected in the gubernatorial cycle and 3 are elected in the presidential cycle. According to analysis from the Administrative Office of the Courts (AOC), this creates an extra burden to train new judges every two years rather than every four years.

## TECHNICAL ISSUES

Page 5, line 10 and page 7, line 11 likely should read, “...probate court is situated,…” not “...probate court is situate…”.

BG/rl/ne/al/rl/mg/al/ne