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Only the most recent FIR version, excluding attachments, is available on the Intranet. Previously issued FIRs and attachments may be obtained from the LFC office in Suite 101 of the State Capitol Building North.

#### FISCAL IMPACT REPORT

SPONSOR:	Martinez	DATE TYPED:	03/09/01	HB	902/aHJC
SHORT TITLE: Inspection of Child Abuse & Neglect Records		SB			
		ANALYST:			Dunbar

#### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring	Fund
FY01	FY02	FY01	FY02	or Non-Rec	Affected
			See Narrative		

(Parenthesis ( ) Indicate Expenditure Decreases)

#### SOURCES OF INFORMATION

Administrative Office of the Courts (AOC) Administrative Office of the District Attorneys (AODA) Children, Youth and Families Department (CYFD) Governor's Concern for the Handicapped Developmental Disabilities Planning Council

### **SUMMARY**

# Synopsis of HJC Amendment

HJC amendment of HB 902 moves the language (under 32A-4-33 C) that provides accredited representatives of the news media, the right to inspect records concerning a party to a child abuse or neglect proceeding.

# Synopsis of Original Bill

This bill expands the number of persons eligible to inspect records concerning a party to a child abuse or neglect proceeding to include accredited representatives of the news media. The bill, also, requires that the press refrain from divulging the identity or identifying information about the child and parents. HB 902 also requires that a court set forth enabling regulations as needed to further the purposes of the Childrens Code.

# **Significant Issues**

The proposed added category of persons (news media) eligible to inspect these type of <u>records</u> is the same as that already contained in Section 32A-4-20(D), which identifies the news media as a party allowed to be present at closed hearings involving child abuse or neglect cases.

# House Bill 902/aHJC -- Page 2

The Administrative Office of the Courts voice the concern that by allowing the news media access to these court records may cause respondents (the parents) in these type of cases to withhold information and/or cause them to be less likely to stipulate to or agree upon particular issues in the case or treatment plan. AOC further declares that: (1) it may result in the creation of an adversarial environment or court system requiring additional resources to resolve these type of cases, and (2) that there may also be a negative impact on existing mediation programs, operating in some of the children's courts, which were specifically designed to provide parties in these cases with more opportunities to resolve their differences and arrive at resolutions and permanency plans that are responsive to their particular circumstances.

While the information contained in CYFDs files is highly personal, the name of the child and family cannot be revealed under this legislation. CYFD believes that this statute tracks this approach and provides the correct balance between the public's right to know and the child's privacy.

#### ADMINISTRATIVE IMPLICATIONS

CYFD acknowledges that the preparation of a case record for press review would be time-consuming. Privileged information and all identifying information about the family would have to be redacted. The impact is still undetermined.

# **OTHER SUBSTANTIVE ISSUES**

CYFD recognizes that the publics right to know about child abuse and neglect cases and to be educated on these issues must be balanced against the privacy interests of the child to prevent stigmatization and to avoid the intimate details of a child's life from public disclosure. The New Mexico Supreme Court recently addressed this issue and ruled that the child's privacy interests must be protected.

The Developmental Disabilities Planning Council (DDPC) expresses the following concerns with the legislation:

- It conflicts with Family Privacy Act.
- Increases the potential for breach of confidentiality which will result in increase litigation in this area.

Moreover, the DDPC states that if the press wants information they should obtain a release of information document from the responsible parties.

BD/ar:lrs:njw