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FISCAL IMPACT REPORT

SPONSOR Larranaga DATE TYPED 1/24/05 HB 111

SHORT TITLE Unborn Victims of Violence Act SB _____

ANALYST Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			See Narrative		

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney Generals Office (AG)
Administrative Office of the District Attorneys (AODA)
Corrections Department (CD)

SUMMARY

Synopsis of Bill

House Bill 111 enacts the “Unborn Victims of Violence Act” which provides criminal penalties for killing or injuring a child in utero without lawful justification. The Act prohibits those crimes and imposes penalties for intentional murder, voluntary manslaughter, involuntary manslaughter, and battery on an “unborn child”. The Act will not apply to legal abortion, self-induced abortion, acts in accordance with customary medical procedure, and acts committed in self defense. Knowledge of pregnancy is not required

Significant Issues

The AG believes HB 111 is modeled after the federal Unborn Victims of Violence Act or “Laci and Conner’s Law” which was signed by President Bush on April 1, 2004. PL 108-212. Opponents of the law, including the Planned Parenthood Federation of America, assert that the federal law represents an erosion of the principles set forth by the Supreme Court in its 1973 decision in Roe v. Wade. Opponents claim that the federal law gives legal status to an egg or embryo, even

if the woman does not know she is pregnant. They also assert that the federal law does not recognize the woman as the victim. The New Mexico bill defines “child in utero” to include “a member of the species homo sapiens at any stage of development that is carried in the womb.” It is therefore likely that opponents will raise those issues during challenges to the federal and similar state laws.

Current New Mexico state law already prohibits “Injury to a Pregnant Woman” (NMSA Section 30-3-7 1978 comp.), and “Injury to a Pregnant Woman by Vehicle” while under the influence of intoxicating liquor or drugs. (NMSA 66-8-101.1 1978 comp.) Both crimes are third degree felonies and prohibit and penalize acts against a pregnant woman resulting in miscarriage or still-birth. If this act is enacted, prosecutors will be faced with choosing the appropriate law.

FISCAL IMPLICATIONS

There might be increased costs to prosecute and incarcerate under this bill. However, New Mexico law already prohibits and penalizes injury to a pregnant woman so there will not be many additional cases under HB 111.

ADMINISTRATIVE IMPLICATIONS

The District Attorneys and the AG will be required to determine if the elements of the crimes specified in the new act have been met before commencing prosecution. They will be faced with legal challenges to the new act during prosecution. Should the act withstand judicial scrutiny, the Corrections Department will be responsible for incarcerating those convicted.

DW/sb:lg