

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

SPONSOR Trujillo DATE TYPED 1/26/05 HB 162

SHORT TITLE Limit Child Support Payments to Principal SB \_\_\_\_\_

ANALYST Weber

### APPROPRIATION

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

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates SB 195

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
Human Services Department  
Attorney General

### SUMMARY

#### Synopsis of Bill

House Bill 162 limits the powers of the Child Support Enforcement Division (CSED) to the collection of child support principal only and relieves CSED from assessing, calculating, collecting, and distributing interest.

#### Significant Issues

The Human Services Department comments.

CSED has just over 70,000 child support cases, 36,023 of them have established court orders, with stipulations to accrue interest on delinquent debt. The number of cases where interest was billed in January 2005 was 29,650 (indicating that they have had a delinquency in paying child support). The number of cases where monthly payments are being made, including interest, is estimated at 18,151 or 61%. Therefore, 11,500 are not making monthly payments on their accruing balance, which includes interest.

Statistically, 60 % of non-custodial parents (NCPs) make less than \$20,000.00 annually. The vast majority of our delinquent cases are low-income non-custodial parents. So each month that goes by has more and more NCPs that cannot afford to pay anything more than their current support amounts, because like a credit card debtor they have balances, which can never be paid off by just paying the minimum payment.

The federal Office of Child Support Enforcement (OCSE) has recognized this trend nationally. Its Strategic Plan of December 2004, stressed the need for have states to implement innovative programs to prevent the build-up of unpaid support and interest.

Currently, under statute 40-4-7.3, CSED is empowered to assess interest on delinquent child support at the rate of four percent. The 46<sup>th</sup> Legislative Session decreased the interest rate from 8 <sup>3</sup>/<sub>4</sub> percent from the law's effective date forward. As CSED implemented this change across its administrative systems, the change proved more complicated than first envisioned. The idea to eliminate interest altogether seemed even more feasible than just reducing it to four percent.

The bill change would:

- Allow the Department to discontinue assessing interest on cases.
- Reduce the time Department attorneys and the courts must spend on each case.
- Preserve the right of the custodial parent to bring a separate action to collect interest (because there are situations where child support obligors definitely should be assessed interest).
- Also preserves the right of CSED to attempt to assess and collect interest in certain extremely egregious cases

## **PERFORMANCE IMPLICATIONS**

HSD reports the following two performance indicators may be impacted.

*Amount of child support collected, in millions of dollars.*  
*Percent of current support owed that is collected.*

## **FISCAL IMPLICATIONS**

There is no direct impact on revenues or expenditures. HSD does anticipate some savings related to a simpler administrative tasks.

## **TECHNICAL ISSUES**

The Attorney General notes.

1. Statutes are prospective only unless the Legislature makes clear that a statute applies retroactively. The principal only limitation may be applicable only to future support orders. The Legislature should clarify whether the department will continue to collect interest in the future under existing child or spousal support orders that include assessment of interest.
2. The authority allowing HSD to assess and collect interest if “the department determines that the circumstances warrant assessment and collection of interest” may be impermissibly vague.

MW/yr