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FISCAL IMPACT REPORT

SPONSOR Larranaga DATE TYPED 2/14/05 HB 341

SHORT TITLE Collection of Biological Parent Information SB _____

ANALYST Weber

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			\$342.5	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Human Services Department

SUMMARY

Synopsis of Bill

House Bill 341 requires the Human Services Department to collect information to identify each biological parent of a dependent child before paying public assistance to or on behalf of the dependent child.

Significant Issues

The Human Services Department comments.

The Human Services Department administers several public assistance programs, but the bill does not specify which programs the bill targets. Those programs include Temporary Assistance for Needy Families, Medicaid, Food Stamps, energy assistance, food distribution, general assistance and funding that is also included as public assistance.

Section 27-2B-11A(11) of the New Mexico Works Act already requires that an individual is ineligible for NMW assistance who does not assist the department in establishing paternity or obtaining child support or who does not assign support rights to New Mexico as required pursuant to the federal act unless he/she demonstrates good cause. Further, a member of the household

will be subject to sanction for noncompliance with child support requirements as found in section 27-2B-14A, where this is a requirement pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996

Section 27-2D-7A(11) in the Education Works Act requires that an individual is ineligible for assistance who does not assist the department in establishing paternity or obtaining child support or who does not assign support rights to New Mexico as required pursuant to the federal act unless he/she demonstrates good cause.

Federal regulations for the United States Department of Agriculture, Food and Nutrition Service, at 7 CFR 273 do not allow cooperation in the identification of each biological parent as an eligibility requirement. Any additional eligibility requirement imposed on a household applying for or receiving food stamp benefits would require approval from the federal agency. Provisions under the federal Food Stamp Reauthorization Act of 2002, Section 822 permits a State option to disqualify the adult for failure to cooperate with a child support agency for an already legally obligated child support order. The Food Stamp program benefits are federal funds that have been an important contribution for New Mexico's efforts to reduce hunger and food insecurity. New Mexico led the nation in food insecurity for 6 years but has recently dropped to 5th in the nation. This can be directly correlated to the increase in federal food stamp dollars brought into New Mexico to feed hungry families and children. This bill could jeopardize these efforts.

Section 27-2-7A(1) concerning the General Assistance program also requires children under eighteen years of age to meet all eligibility conditions for the New Mexico Works Act [27-2B-1 to 27-2B-20] NMSA 1978]. This statute contains the same requirements found in the New Mexico Works Act that an individual is ineligible for assistance when he/she does not assist the department in establishing paternity or obtaining child support or who do does not assign support rights to New Mexico as required pursuant to the federal act unless he/she demonstrates good cause.

Regulations for Medicaid, specifically Medicaid programs for children and families, require as a condition of eligibility a parent's assignment of medical support rights. Information to identify the biological or legal parent of a child is collected, but not as a condition of eligibility for the child. An eligible child may not be denied Medicaid due to the non-cooperation of the custodial parent in identifying the biological parent. In JUL Medicaid a parent may be removed from the Medicaid eligibility for failure to cooperate with child support requirements.

The Human Services Department administers other public assistance programs under federal oversight and regulations where identifying and collecting information on a biological parent is not a condition of eligibility for a dependent child. Since "public assistance" is not defined, it would also include the following: energy assistance under the Low Income Home Energy Assistance Program (LIHEAP), Refugee Resettlement under the United States Department of Health and Human Services requirements, and food distribution under the Temporary Emergency Food Assistance Program the United States Department of Agriculture administers.

The bill does not define a process for identifying or utilizing the information obtained on the biological parent. Public Assistance Act Section 27-2-27 already provides for a process for enforcement of child and spousal support obligations under Title IV-D of the federal act that includes establishing paternity. The bill does not refer to this process or define a different process. Child support agency federal requirements under Title IV-D allow three years for establishing

child support obligations.

HB 341 language is very broad and does not specify identify public assistance types or programs, does not define a process for identifying if a household member has cooperated with the requirement by indicating what information is to be collected to meet the requirement, if the identity made is to be validated through genetic and paternity establishment. Depending on the explanation of these definitions, HSD's enforcement of Interstate Child Support cases may be in violation of federal and international laws. HB 341 also requires the department to not provide public assistance to the dependent child rather than the parent that appears to be a punitive measure to the child for parental non-cooperation.

HB 341 requires the Human Services Department to collect information before paying public assistance to or on behalf of a dependent child. Additional staff time in the Child Support Enforcement and Income Support Divisions will be required to perform this administrative function for programs for which it is not a requirement, and the bill will require significant changes to the Child Support Enforcement Division and Income Support Division IT automated systems.

As drafted, HB 341 will likely yield many unintended consequences. If the intent of the bill is to ensure that dependent children receive public assistance adequate to meet their needs the department's mandate to "collect information to identify each biological parent of a dependent child" before paying public assistance would defeat that purpose. Since "public assistance" in the Public Assistance Act encompasses a number of benefits, including food stamps and Medicaid, the department's failure to collect identifying information could have serious consequence for a dependent.

Because the bill is broadly and vaguely worded, "collect information to identify each biological parent" is open to interpretation. Such information could include names, birth certificates, social security numbers, all of which HSD already collects. If the bill is intended to apply to child support obligations, the relevant state statute, Section 27-2-27, in conformity with federal law, provides for a process of establishing paternity, which the department has implemented to ensure that both the civil and due process rights of both parents are met. Since the bill extends to HSD's other public assistance programs for which there are no corresponding processes in place, the department may face a number of lawsuits.

FISCAL IMPLICATIONS

The Human Services Department estimates the fiscal implications of the bill's collection requirements would be significant: The bill would require the following: additional administrative time and staff for eligibility caseworkers to collect information at the application interviews and additional child support staff to process the information, revisions to department regulations and eligibility forms for several programs, applications for federal waivers which may or may not be approved, amendments to the Title IV-D (Child Support) and TANF State Plans, and major changes to the Human Services Department's IT systems -- ISD2 and child CSES -- for collection of the information. HB 341 does not include funding for automated eligibility system changes or additional staff. The level of effort required to make systems changes is 2,740 hours of programming at a cost of \$342,500.00.

TECHNICAL ISSUES

HSD notes HB 341 does not define “public assistance” or specify which programs would be affected. HB 341 also fails to define “collect information to identify.” The bill mandates the collection of information on “each biological parent” but does not address circumstances involving adoptive or legal parents. Further, the bill does not address dependent children who suffer from domestic violence or were conceived as a result of rape. As drafted, the bill is punitive to dependent children rather than their parents.

MW/yr