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FISCAL IMPACT REPORT

SPONSOR Grubestic DATE TYPED 01/31/05 HB _____

SHORT TITLE Programs Affecting New Mexico Children SB 180

ANALYST McSherry

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
NFI	\$356.3	NFI	Indeterminate	Recurring	General Fund
NFI	\$305.7	NFI	Indeterminate	Recurring	General Fund
NFI	\$128.2	NFI	Indeterminate	Recurring	General Fund
NFI	\$241.0	NFI	Indeterminate	Recurring	General Fund

This bill is the same as HB 34, Programs Affecting New Mexico Children.

Senate Bill 180 relates to the General Appropriation Act as there is some funding for each of these programs in each of the proposed budget recommendations; the LFC recommendation includes \$225 thousand more than the executive recommendation for the Court Appointed Attorney Fund.

SOURCES OF INFORMATION

LFC Files
 Administrative Office of the Courts
 Children Youth and Families Department

SUMMARY

Synopsis of Bill

Senate Bill 180 appropriate \$1,031,195 thousand from the general fund to the Administrative Office of the Courts (AOC) for the purpose of increasing the state funding for the Court Appointed Attorney Fund (CAAF), mediation services in abuse and neglect cases, the Court Appointed Special Advocate (CASA) program and access and visitation programs. Any unexpended or unencumbered balance remaining at the end of fiscal year 2006 would revert to the general fund.

The distribution of the \$1,031.2 thousand appropriation would be as follows: \$356.3 thousand for CAAF to increase the number of compensated hours paid statewide to attorneys in abuse and neglect cases, \$305.7 thousand to replace federal grant funds for mediation services in abuse and neglect cases in the second, fifth, sixth, seventh, eleventh and thirteen judicial districts, to expand mediation services to additional judicial districts and fund network services for training and quality assurance, \$128.3 thousand to expand existing court appointed special advocate (CASA) programs in the fourth, fifth, sixth, seventh, eleventh, twelfth and thirteen judicial districts and add new programs in the sixth and thirteenth judicial districts and \$241.0 thousand to maintain existing access and visitation programs in the first, second, fifth, ninth, and thirteen judicial districts, add new programs to additional judicial districts and fund network services for training and quality assurance

Significant Issues

According to the AOC, the proposed funding is for children and youth who are victims of child abuse and neglect and would be used to “ensure the children’s well-being, safety, and permanency.” AOC asserts that the numbers of children and young people involved in abuse/neglect cases is increasing. According to the Children, Youth and Families Department, the number of reports of abuse/neglect accepted for investigation have increased 10% in the last year and that the number of children in care has increased 15%.

The Court Appointed Attorney Fund

The Court Appointed Attorney Fund was established to pay court appointed attorney fees as required by constitution, statute, and case law. AOC reports that the majority of the fund (approximately 88% statewide) is used to pay court-appointed Guardians ad Litem (GAL) for children and Respondent Attorneys for parents in abuse and neglect proceedings under the Children’s Code. AOC relates that studies have demonstrated that over one-quarter of the time spent on these cases is uncompensated. With increasing caseloads, new requirements for conferences and hearings, and attorney performance standards, the AOC states that judicial districts cannot recruit and retain qualified counsel when a substantial portion of their work is essentially uncompensated.

AOC states that, with the increasing cases and amount of time that attorneys are spending on abuse and neglect cases, the additional funds for the Court Appointed Attorney Fee Fund are critical. Without additional funding, the AOC asserts that the department will have to seek a supplemental appropriation to cover the costs of paying for court appointed attorneys as required by the constitution, statute, and case law.

Mediation

Children’s court mediation began in March 2000 when AOC began a pilot project with the Children, Youth and Families Department to use mediation in abuse and neglect cases. Abuse and neglect cases are mediated at the investigation, pre-legal, and legal stages as well as in cases where families are involved with both protective services and juvenile justice. A trained mediator meets with the parents, their attorneys, the Guardian ad Litem, the CYFD attorney, the social worker and other interested parties to assist them in achieving agreements regarding placement, visitation, treatment and permanency.

The AOC reports that mediation in abuse and neglect cases is available in the following judicial districts: Second (Bernalillo County); Fifth (Lea and Chaves Counties); Sixth (Grant, Luna and

Hidalgo Counties); Seventh (Socorro, N. Catron, Sierra, and Torrance Counties); Eleventh (San Juan County); and Thirteenth (Sandoval, Valencia, and Cibola Counties) and that since March of 2000, over one thousand cases have been mediated. According to the AOC, funding proposed for the mediation program will be used to replace federal funds from CYFD historically used for the described services in the amount of \$187.7 thousand, for expansion to additional judicial districts in the amount of \$71.0 thousand, and funding for network services including training and quality assurance in the amount of \$47.0 thousand. The AOC relates, that in FY05, funding for this program from the Children, Youth and Families Department was cut from \$141.7 thousand to \$80.0 thousand and that there is no certainty that the AOC will get any federal funds from CYFD for FY06.

Court Appointed Special Advocates

The Court Appointed Special Advocate (CASA) Program provides trained volunteer advocates for children who have been placed in foster care because of parental abuse and neglect. CASAs are appointed by a judge and assist the court in determining the best interests of the child by investigating the case and submitting a report to the court. CASA programs are managed by the New Mexico CASA Statewide Network which provides training and technical assistance, quality assurance and quality improvement activities, and monitoring, auditing and oversight. The proposed funding would support new CASA programs in the amount of \$29.8 thousand and would expand existing CASA programs to serve more children in the amount of \$98.4 thousand. According to the AOC, not enacting this legislation would mean that eight of fifteen existing programs will not receive enough funding to manage the growth in new cases and new volunteers, and children in two communities (Grants and Deming) who would greatly benefit from CASA volunteers would not have fully established programs.

The Access and Visitation Program

The access and visitation program provides parents a safe place for parent/child visitations or exchanges of children between parents in cases of abuse/neglect, separation, divorce, substance abuse, mental illness or family violence. According to the AOC, the programs serve local courts who routinely write the local access and visitation program services into their court orders, stipulating the level of supervision required.

Access and Visitation Programs are presently located in the following judicial districts: First (Rio Arriba and Santa Fe Counties); Second (Bernalillo County); Third (Dona Ana County); Fifth (Chaves and Eddie Counties); Sixth (Grant and Luna Counties); Ninth (Curry and Roosevelt Counties); and Thirteenth (Sandoval County). The proposed funding would be invested in the maintenance of existing programs in the amount of \$123.0 thousand, new programs in the amount of \$78.0 thousand and funding for network services including training and quality assurance in the amount of \$40.0 thousand. The AOC asserts that the number of referrals for supervised visitation grows each year and that the funding is not secure. AOC gives the example of the "Neutral Corner" located in Albuquerque, which receives state and city funds to provide services. AOC reports that the City has notified the Neutral Corner that as of June 30, 2005, the City will no longer provide any funding for this program. AOC asserts that if additional state funds are not appropriated, the Neutral Corner may cease to operate and no services will be available within the Second Judicial District.

According to CYFD, the New Mexico Children's Cabinet supports this initiative of the New Mexico Judiciary.

PERFORMANCE IMPLICATIONS

CYFD reports that additional and expanded court services for the CYFD target population will reduce the likelihood of repeat abuse and neglect.

Court Appointed Attorney Fund

AOC reported performance outcomes include: zealous representation of the child's best interests, cultural needs, and other considerations in staffing and hearings, zealous representation of the parents expressed preferences, cultural needs, and other considerations in staffing and hearings

Mediation

AOC reported performance outcomes include: Helping to conserve Judicial and CYFD resources Improving the families understanding of and satisfaction with the legal process I proving the quality of and compliance with treatment plans, increasing options for placement, permanency and service

Casas

AOC reported performance outcomes include: Quality volunteer advocacy, Assisting the courts in assuring child safety and well-being, Assisting the courts in assuring safe and nurturing temporary and permanent placements

Visitation

AOC reported performance outcomes include: continuity of the non-custodial parent/child relationship, prevention of further violence, and improved child well-being

Special Court Services Program

AOC provides court advocates, legal counsel, and safe exchanges for children and families so that the constitutional rights and safety of citizens, in particular children and families, are protected. The AOC has been providing data on the following performance measures for the Special Court Services Program: number of required events attended by attorneys in abuse and neglect cases, number of monthly supervised child visitations conducted and number of cases to which court-appointed special advocate volunteers are assigned.

FISCAL IMPLICATIONS

The appropriation of \$1,031,195 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY06 shall revert to the general fund

The AOC recommends that the appropriation contained in this bill be incorporated into the AOC Special Court Services operating budget.

This bill creates a new fund and provides for continuing appropriations. The LFC objects to including continuing appropriation language in the statutory provisions for newly created funds. Earmarking reduces the ability of the legislature to establish spending priorities.

ADMINISTRATIVE IMPLICATIONS

AOC does not describe how funds for “training and quality assurance” will be used in each of the described programs, however the function is likely to increase administrative responsibilities for the party charged with the duty. It is unclear what funding is currently used for training and quality assurance for the programs.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 34 proposes the same funding for the same programs.

OTHER SUBSTANTIVE ISSUES

Quality assurance issues have been raised in CYFD concerning AOC-contracted access and visitation programs. CYFD suggests that training would promote best-practice among the judicial districts and programs funded.

CYFD currently funds mediation services through CYFD/Juvenile Community Corrections contracts for those youth involved in this program. CYFD/Family Services currently funds two access and visitation programs through federal funds at \$100.0 thousand in FY05.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

AOC asserts that covering costs with the current funding for these programs has been difficult, and that if additional state funds are not allocated, some programs (Supervised Visitation and the Children’s Court Mediation) will cease. According to AOC, a supplemental appropriation may be needed to cover the costs of paying for court appointed attorneys as required by the constitution, statute, and case law.

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