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FISCAL IMPACT REPORT

ORIGINAL DATE 02/05/14

SPONSOR Fajardo LAST UPDATED _____ HB 298

SHORT TITLE Family in Need of Court Ordered Services SB _____

ANALYST Klundt

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY14	FY15		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Children, Youth and Families Department (CYFD)
 Administrative Office of the Courts (AOC)
 Administrative Office of the District Attorneys (AODA)
 Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

House Bill 298 amends the Families in Need of Court Ordered Services (FINCOS) Section 32A-3B-2 NMSA 1978 of the Children's Code to include families in which the child's parent, guardian or custodian has been the subject of an investigation by the Children, Youth and Families Department (CYFD) that found credible evidence that the child has been abused or neglected as defined in the Abuse and Neglect Act. Currently the statute addresses children who are runaways or whose parents will not allow them back in the home. This bill adds the use of court services for cases in which the CYFD believes there is evidence of abuse or neglect.

FISCAL IMPLICATIONS

According to the Administrative Office of the Courts (AOC), there will be initial, minimal, impact from publication and distribution of the statute change. Additional implications will be proportional to the extent to which the new portion of the statute is used in addition to the current number of abuse/neglect cases that are filed. The Court Appointed Attorney Feed Fund (CAAFF) will be impact insofar as attorneys are appointed for respondents and children. Currently, attorneys on contract with the courts and paid through the CAAFF are required to handle FINCOS cases to which they are appointed.

SIGNIFICANT ISSUES

The AOC states that there is a multi-stakeholder group drafting and reviewing changes to the Children’s Code for presentation at the 2015 legislature. This includes a review of the FINCOS as a means of service delivery for intensive in-home services for families without filing an abuse/neglect petition.

According to the Administrative Office of the District Attorneys (AODA), this change will allow services to be offered to a broader category of those in need of these services, which will hopefully be of benefit to them before the suspected situation of abuse or neglect escalates. The term “credible evidence” is one of common meaning in the legal field, and the court will comprehend its meaning in ensuring that standard is met in these cases.

CYFD reports that this bill provides the opportunity to enforce the engagement of families in need of services who are unwilling to do so voluntarily. Additionally the agency believes that for families, this bill ensures their involvement in services designed to help meet their needs and strengthen their family unit without the necessity for an abuse and neglect petition and/or removal of the children.

According to CYFD, the increase in that this bill provides in flexibility of the child welfare system to respond to the specific needs of individual families by allowing for a level of intervention above voluntary services, but below a petition for custody, when a child is found by credible evidence to have been abused and/or neglected. This bill acknowledges that not all abuse and neglect occurrences require the separation of the children from the family unit. Currently, there are two primary methods for a family to receive services. On one end of the spectrum is voluntary services without court intervention. On the other end of the spectrum is court-ordered services implemented while the child is in the legal and physical custody of CYFD. The bill introduces a third option for cases that do require intervention, but where the need does not necessarily rise to the level of severity where the child must be removed.

PERFORMANCE IMPLICATIONS

The AOC reports that courts are measured on time to permanency in abuse/neglect cases. If the revised FINCOS is used extensively and there is no change to the number of abuse/neglect petitions filed, then court dockets will increase making it difficult to handle larger caseloads and meet timelines. However, if FINCOs cases dispose of concerns for safety before, and without, filing a petition for abuse/neglect then it could be that performance implications are negligible.

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type.
- Length of time the case is pending

CYFD has performance measures related to the safety, stability, and well-being of children.

ADMINISTRATIVE IMPLICATIONS

The new subsection indicates the Supreme Court would need to adopt rules which would require resources and committee time to propose and needed rules and forms before Supreme Court approval.

CYFD anticipates a rise in attorney, caseworker, and supervisor loads which cannot at this time be quantified. Staff time and effort necessary for implementation of this bill could be absorbed by existing resources.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

When handling cases related to families in which a child's parent, guardian or custodian has been the subject of an investigation by the department that found credible evidence that the child has been abused or neglected as defined in the Abuse and Neglect Act, NMSA 1978, §§ 32A-4-34 to -22 (1993, as amended through 2009), CYFD will need to continue to follow the procedures set out in that act.

KK/jl:ds