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FISCAL IMPACT REPORT

ORIGINAL DATE 1/9/15
SPONSOR Padilla **LAST UPDATED** _____ **HB** _____

SHORT TITLE Second Judicial District Elder and Disability Court **SB** 36

ANALYST A. Sánchez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		
	\$245.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$245.0	\$252.4	\$497.4	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

Senate Bill 36 appropriates \$245 thousand from the general fund to the Second Judicial District Court to establish an elder and disability court. The court is designed to address issues such as legal capacity, guardianship, and abuse of the elderly. Adult guardianship cases involve citizens with cognitive disorders due to aging, intellectual disability, and socio-affective disorders, or involve citizens who have suffered trauma to the brain (“Incapacitated Person”).

FISCAL IMPLICATIONS

The appropriation of \$245 thousand contained in this bill is a recurring expense to the general fund. Any unexpended balance remaining at the end of 2016 shall revert to the general fund. The original amount will increase approximately three percent or more annually.

AOC states that the appropriation would fund three FTEs to assist 10 civil judges in monitoring the approximately 8,000 such cases currently active in Bernalillo County.

SIGNIFICANT ISSUES

The court included these positions as an expansion in its FY16 budget request, but the expansion was not recommended.

According to the AOC, the second judicial district court indicates that though NMSA Chapter 45, the court is mandated to provide oversight and monitoring of such adult guardianship cases, but it has never had the staff necessary to fulfill the mandate. It also indicates the number of such cases is increasing with the aging of the general population.

In addition, the second judicial district indicates it addresses approximately 170 new adult guardianship cases per year. Upon a determination that the adult is incapacitated, the court must appoint a guardian and/or conservator. The duties of a guardian include securing safe housing, appropriate medical and social services, clothing, food and appropriate education/training for the incapacitated person. The duties of a conservator include management of the incapacitated person's financial affairs, including payment of bills, investments and the sale of real and personal property. In addition, the guardian and/or conservator must make annual reports to the court about the well-being of the incapacitated person and bring any problems the incapacitated person is facing to the attention of the court.

After a guardian or conservator is appointed, the court has an ongoing obligation in each case to address emergency matters involving the Incapacitated Person, review annual reports, perform in-person assessments of the Incapacitated Person every 10 years and ensure the general safety and welfare of the Incapacitated Person.

ADMINISTRATIVE IMPLICATIONS

The AOC anticipates the Second Judicial District Court would start it as a pilot program responsible for monitoring the health, safety and welfare of elderly individuals for whom a guardian or conservator has been appointed by the court.

The second judicial district court indicates that if SB36 is enacted, the elder court would work in partnership with the Aging and Long-term Services Department and would reduce costs to that department by avoiding claims to adult protective services.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 36 relates to the General Appropriation Act.

ABS/aml