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FISCAL IMPACT REPORT

SPONSOR Gentry ORIGINAL DATE 1/24/18
LAST UPDATED _____ HB 108
SHORT TITLE Parentage Hearings Inspection of Records SB _____
ANALYST Klundt

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Children, Youth and Families Department (CYFD)

SUMMARY

House Bill 108 (HB 108) repeals §40-11A-633 of New Mexico's Uniform Parentage Act. This section applies to Article 6 of the New Mexico Uniform Parentage Act – Proceedings to Adjudicate Parentage. Court hearings are conducted under this section to determine paternity and can also result in an order of past and or future child support pursuant to the child support guidelines (Section 40-4-11.1 NMSA 1978), custody and guardianship of the child, as well as visitation. The section provides for a closed hearing at the request of a party and for good cause shown, allows for sealing of court records, the requirement of availability of the final order for public inspection, and other documents made available only with consent of parties and good cause shown.

FISCAL IMPLICATIONS

AOC noted there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes.

SIGNIFICANT ISSUES

AOC reported: "Section 40-11A-633 and Section 40-11A-642 both address hearings and records under New Mexico's Uniform Parentage Act (NMUPA) and contain similar provisions with regard to closed hearings and the accessibility of records. With a repeal of Section 40-11A-633,

Section 40-11A-642 would continue to cover the hearings and records concerns.

Section 40-11A-642, although broader, still allows for any hearing or trial under the NMUPA to be closed and court records to be sealed, whether a part of the permanent record or any other file maintained by the state to be subject to inspection only upon consent of the court.

Additionally, HB 108 would repeal the requirement of the availability of the final order as well as availability of records with consent of parties. But, Section 40-11A-642 would allow a court to grant permission to inspect certain papers and/or records.

Finally, if Section 40-11A-633 were repealed, there is nothing in the NMUPA preventing the parties from requesting a closed hearing or sealing order nor anything preventing a judge from granting such a request. A judge could also *sua sponte* (without a prior motion) order a closed hearing or a record sealed. Likewise, a member of the public maintains the ability to request access to a hearing, the final order, or the court record.

It should also be noted, in 2009 the Uniform Parentage Act was repealed and replaced with the New Mexico Uniform Parentage Act through SB 463. It was pointed out in the fiscal impact report for HB 463 in 2009 that there were several sections of the proposed bill that were not included in the model Act. §40-11A-633, the subject of HB 108, is contained in the model Act, where Section

40-11A-642 is not. See the full 2009 SB 463 FIR at:

<https://www.nmlegis.gov/Sessions/09%20Regular/firs/SB0463.pdf>“.

As CYFD stated that since the agency has a responsibility to locate the parents of children whom CYFD is investigating, having the records of such court proceedings be public record may assist CYFD in locating parents. It may also benefit HSD or other agencies that may be seeking to locate parents of children.

KK/sb/al