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FISCAL IMPACT REPORT

ORIGINAL DATE 01/29/09
LAST UPDATED 02/20/09 **HB** _____

SPONSOR Ortiz y Pino

SHORT TITLE Domestic Abuse Victim Financial Independence **SB** 68/aSJC/aSfI#1

ANALYST Peery-Golan

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Minimal	Minimal	Minimal	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Transportation (DOT)
 New Mexico Corrections Department (NMCD)
 Administrative Office of the Courts (AOC)
 Children, Youth and Families Department (CYFD)
 Workforce Solutions Department (WSD)

SUMMARY

Synopsis of SFI#1 Amendment

Senate Floor amendment #1 to Senate Bill 68 clarifies “district attorneys” victim advocates in the proposed legislation.

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment clarifies that the domestic abuse leave can be taken for up to 14 days in any calendar year, deletes language pertaining to an employee’s written statement as verification of the need for domestic abuse leave, and clarifies that the Workforce Solutions Department and the employee have the right to bring an action in violation of the Promoting Financial Independence for Victims of Domestic Abuse Act in a court of competent jurisdiction.

Synopsis of Original Bill

Senate Bill 68 creates the Promoting Financial Independence of Victims of Domestic Abuse Act requiring employers to grant domestic abuse leave, without fear of loss of employment or retaliation, to employees. The abuse leave is for the purpose of obtaining an order of protection

or other judicial relief from domestic abuse, to meet with law enforcement officials, to consult with attorneys or victim advocates, or to attend court proceedings related to the domestic abuse for themselves or a family member.

The proposed legislation would require that the employee provide verification of the need for the leave through a written statement from the employee, an attorney representing the employee, a victim advocate, a law enforcement official, or a prosecuting attorney.

The proposed legislation limits the employer's authority to disclose verification information related to an employee taking domestic abuse leave without employee consent, a court or administrative agency order requiring disclosure, or as otherwise required by federal or state law. The proposed legislation grants authority to the Workforce Solutions Department to enforce this act and investigate complaints from persons claiming to be aggrieved pursuant to the new law.

FISCAL IMPLICATIONS

DOT stated minimal fiscal impact may result to the department and other employers due to the result of other employee working overtime or reduced productivity of the requesting employee.

AOC reported there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to civil actions brought pursuant to this Act. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

WSD noted the Senate Judiciary Committee amendment gives enforcement abilities with the provision that allows the department to file a lawsuit. Without the ability to file a lawsuit, enforcement options would be minimal and for the most part voluntary on behalf of the employer. Recovery of attorney fees and costs are mandated on successful lawsuits so the fiscal impact should be limited.

CYFD stated the proposed legislation would allow domestic violence survivors to participate in legal proceedings that otherwise might be dismissed without their participation. It is estimated that 30 to 53 percent of employed victims of domestic violence lose their jobs due to domestic violence. When battered women have few personal or financial resources or find participation in prosecution costly, they may be reluctant to proceed. The proposed legislation will provide support to survivors to seek protection from abuse without jeopardizing their employment or the fear of losing an independent source of income.

PERFORMANCE IMPLICATIONS

AOC noted the proposed legislation may have an impact on the following performance measures: cases disposed of as a percent of cases filed and percent change in case filings by case type.

CYFD reported it is currently capturing performance outcomes related to the number of adult victims who participate in services. The department noted the proposed legislation could

increase the number of adult survivors seeking support from a program, and increase the number of offenders seeking intervention services.

ADMINISTRATIVE IMPLICATIONS

WSD stated the Senate Judiciary Committee amendment will have an administrative impact on the department. Without knowing how many claims would proceed to the lawsuit stage the impact on the WSD personnel is unclear; however, at this time the department is not seeking additional personnel.

DOT stated the proposed legislation would lead to a minimal increase in workload for department staff assigned to administer this process, and for the department to develop and adopt a policy to implement the provisions of the act.

NMCD stated it will need to draft and disseminate a policy complying with and summarizing the proposed legislation's requirements if it becomes law. NMCD noted this will not be difficult, and the department can easily absorb these additional duties without hiring any new FTE.

WSD reported it already has enforcement personnel and mechanisms in place for similar obligations for other wage and hour statutes.

TECHNICAL ISSUES

DOT stated that the proposed legislation defines domestic abuse leave as intermittent paid or unpaid leave for "up to eight hours in one day for as many days as necessary," which precludes the use of a full day of leave for persons whose scheduled work day may exceed eight hours. There may be instances when an employee would use continuous leave in excess of eight hours for the circumstances set forth in the bill, such as to attend court proceedings.

OTHER SUBSTANTIVE ISSUES

DOT noted that "confidential" records as defined under New Mexico State Personnel Board Rules and the Inspection of Public Records Act do not currently include confidentiality for this type of information. Both the State Personnel Board Rules and the Inspection of Public Records Act would need to be amended to conform to the provisions of this Act. Also, State Personnel Board Rules would need to be amended to provide for the use of sick leave for domestic abuse leave.

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