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FISCAL IMPACT REPORT

SPONSOR: Aragon DATE TYPED: 02/12/01 HB _____
 SHORT TITLE: Safe Place for Infants Act SB 366
 ANALYST: Dunbar

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
	\$ 250.0	See Narrative		Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 94 and HB 251.

SOURCES OF INFORMATION

LFC Files
 Administrative Officer of the Courts
 Children, Youth and Families Department (CYFD)
 Commission on the Status of Women
 Health Policy Commission (HPC)

SUMMARY

Synopsis of Bill

SB 366 enacts and amends current law to provide safe places where an individual can leave an infant. The individual would not be subject to prosecution for abandonment if the infant is less than six months old and is left in an unharmed condition. A safe place is a fire station or substation staffed by an emergency medical technician or a hospital licensed by DOH that has an emergency department or other department that responds to the needs of the acutely sick and injured. CYFD will take custody of the infant only when the infant's medical condition has been stabilized and medical services rendered. CYFD will then initiate proceedings under the Adoption Act for placing the infant. Safe place staff are immune from criminal or civil liability if they acted in good faith in receiving the infant.

SB 366 amends the Criminal Code on abandonment (NMSA 1978 § 30-6-1). This bill appropriates \$250.0 from the general fund to CYFD for the purpose of perform public outreach functions necessary to educate the public about the Safe Place for Infants Act.

The bill has an emergency clause.

Significant Issues

According to HPC, 14 states have enacted “safe haven” laws and the legislation varies greatly from state-to-state. States that heavily publicize the program have seen a decline in abandonment cases. CYFD supports legislation intended to keep children safe from harm and that any child abandoned should have a safe and secure place to live. However, they identify the following issues with the legislation:

1. There is no requirement for a medical history of the mother, father or child, which could complicate medical treatment.
2. Families who have a newborn placed with them are at risk of the mother requesting reunification at a later date.
3. CYFD must proceed immediately to adoption without attempting reasonable efforts or providing counseling to the mother concerning the finality of a decision to place a child for adoption.
4. Ignoring the procedural requirements of the Abuse and Neglect Act places adoption under these circumstances at risk.
5. CYFD should also receive immunity from civil lawsuits as a result of duty to implement this statute.

PERFORMANCE IMPLICATIONS

One output measure is proposed:

Number of infants received under the Safe Place for Infants Act:

FISCAL IMPLICATIONS

The appropriation of \$250.0 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2002 shall revert to the general fund.

ADMINISTRATIVE IMPLICATIONS

CYFD will have determine what “safe places” exist throughout the state and develop administrative procedures to instruct these safe places about the program and reporting requirements. It will have to determine what will be the most effective way to educate the public about the program. The number of persons leaving infants at safe places can not be determined. CYFD is concerned that no funds are provided for use in the additional work that might be required of the social workers and children’s court attorneys to locate and notify absent parents of their rights in a termination action. Additional workload and staffing will have to be considered at a later date.

CONFLICT/RELATIONSHIP

This bill is related to SB 94 and HB 251.

Conflicts with the Abuse and Neglect Act provisions on abandonment as grounds for action and for termination of parental rights (NMSA 1978 § 32A-4-4-2(A), 32A-4-18(C), 32A-4-28 and 29)
Conflicts with the requirement of parental support for children (NMSA 1978 § 32A-4-26)
Conflicts with the Adoption Act requirement for termination or relinquishment of parental rights before adoption can proceed (NMSA 1978 § 32A-5-17).

TECHNICAL ISSUES

CYFD points out that Section 3 of the bill provides that “prosecution” may not be based on conduct covered by the bill. The term appears to mean criminal prosecution, but it is not expressly clear whether the bill is intended to affect civil proceedings against parents for abandonment under the Children’s Code/Abuse and Neglect Act.

Section 3(A) of the bill covers infants who are left “unharmful.” This is not defined, in terms of either physical or emotional harm.

The word “unexpected” on page 5, line 21, should be changed to “unexpended.”

OTHER SUBSTANTIVE ISSUES

HPC identifies that the bill does not include a Medicaid eligibility provision for the infant and that it does not address the mental health needs of the surrendering parent. The bill makes no provision for the rights of the parents if they decide to change their mind at a later date or the rights of the non-surrendering parent, grandparent or other relatives.

BD/nw:ar