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# FISCAL IMPACT REPORT

SPONSOR: K	Komidina	DATE TYPED:	02/05/01	HB	
SHORT TITLE:	Open Adoptions			SB	113/aSPAC
			ANAL	YST:	Gilbert

### **APPROPRIATION**

Appropriation Contained		Estimated Add	litional Impact	Recurring	Fund
FY01	FY02	FY01	FY02	or Non-Rec	Affected
NFI					

(Parenthesis () Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

Administrative Office of the Courts Attorney General

### SUMMARY

#### Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment of Senate Bill 113 adds a new section 1,D(4)(a)(7) to page 3, line 11 which relates to the definition of an *acknowledged father*. By openly proclaiming an adoptee (under six months of age at the time of placement) as his own child, the acknowledged father may establish a custodial, personal, or financial relationship with the adoptee. The original bill outlined six requirements for establishing such a relationship with the adoptee. The language added to a new section 1,D(4)(a)(7) allows the court to establish any other factor deemed necessary to establish relationship with the adoptee, in addition to the six requirements listed in the original bill.

This amendment strikes the bill's original language added to Section 32A-5-35 NMSA 1978 section 8, B (page 27, lines 8-11) and adds new language. The original bill did not allow the court to appoint a guardian ad litem for an adoptee when placement was made voluntarily or through a licensed child placement agency or pursuant to the provisions of Section 32A-5-13 NMSA 1978. The language added in this amendment allows the court, in its discretion, to appoint a guardian ad litem.

This amendment also changes the language in Section 32A-5-35 NMSA 1978 section 8, D, (page 27, lines 20 & 21) back to the law's original language. This provision relates to language which must be included in open adoption agreements.

### Synopsis of Original Bill

# Senate Bill 113/aSPAC -- Page 2

Senate Bill 113 amends Section 32A-5-3 NMSA 1978 (Adoption Act) to delete language that requires requests to be filed with the court at least thirty days prior to placement (physical transfer) of adopted children; deletes a definition of "*putative father*"; provides that an "*alleged father*" is not required to consent to an adoption or relinquish parental rights; and provides that an "*alleged father*" is not required to receive notice of adoption proceedings.

# FISCAL IMPLICATIONS

The Administrative Office of the Courts stated that SB113 has minimal fiscal impact on the judiciary itself, but they are concerned about the limited resources available for court-appointed attorneys.

# **OTHER SUBSTANTIVE ISSUES**

SB113 allows the court to appoint an attorney for a parent only if that person is indigent. This bill sets the attorney compensation at the rate determined by the supreme court for court-appointed attorneys. The court-appointed attorney fund has very limited resources to pay for needed services in other court proceedings.

If a natural parent does not have adequate notice and opportunity to be heard concerning an adoption proceeding, the adoption may be challenged. Also, such uncertainty may not be in the best interest of the child.

# **POSSIBLE QUESTIONS**

- 1. Why should a court- appointed attorney only be provided to an indigent parent when the court previously had the discretion to appoint counsel in any case "in the interest of justice"?
- 2. What happens if the indigent person cannot afford to pay the fee established by the court for an appointed attorney?

LG\ar