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FISCAL IMPACT REPORT



SPONSOR: Picraux DATE TYPED: 1/30/02 HB 195

SHORT TITLE: Threatening Communicable Diseases SB _____

ANALYST: Esquibel

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY02	FY03	FY02	FY03		
			0.1	Recurring	GF

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Responses Received From
 Department of Public Safety (DPS)
 Attorney General's Office (AG)
 Department of Health (DOH)
 Administrative Office of the Courts (AOC)
 NM Health Policy Commission (HPC)

SUMMARY

Synopsis of Bill

House Bill 195 would amend Section 24-1-15 NMSU 1978 to address the potential isolation of a person infected with a threatening communicable disease who has refused voluntary treatment, detention or observation. The bill would provide for representation by counsel for the detainee, clarifies burden of proof requirements and requires sealing of the proceedings records.

FISCAL IMPLICATIONS

Implementation of the bill would require funding for personnel and associated costs for the courts, Public Defender Department and district attorneys.

ADMINISTRATIVE IMPLICATIONS

Implementation of the provisions of this bill would require substantial administrative support and legal representation from the courts, district attorneys and Public Defender Department.

TECHNICAL ISSUES

The AG reports the following:

This bill is necessary and extremely important because the current statute places the burden of proof in this isolation/detention situation on the person who is infected with a threatening communicable disease and refusing voluntary treatment. The burden of proving by a clear and convincing standard that a person must be isolated/detained must be changed and shifted to the petitioner. Without this clarification, this statute is unconstitutional. To ensure constitutionality, fairness and justice, the burden to civilly isolate/detain a person with a proven threatening communicable disease who refuses voluntary treatment must be on the petitioner and not the person being isolated/detained.

In addition, the bill makes clear and unambiguous the constitutional requirement to appoint legal counsel to persons in this isolation/detention situation who cannot afford an attorney.

RAE/njw