FISCAL IMPACT REPORT

SPONSOR: HJC   DATE TYPED: 3/16/03   HB   345/HJCS

SHORT TITLE: Court Proceeding For Custody Orders   SB

ANALYST: Chavez

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			See Narrative		

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Administrative Office of the Courts (AOC)
Administrative Office of the District Attorney (AODA)
LFC Files

SUMMARY

Synopsis of Bill

The House Judiciary Committee Substitute for House Bill 345 creates a new section of the NMSA 1978 to provide for a court proceeding to enforce a custody, time-sharing or visitation order and to provide for other remedies the court may issue if a party is held in contempt.

The House Judiciary Committee Substitute for House Bill 345 provides:

▪ A court order concerning custody, time-sharing or visitation arrangements <u>shall be enforced</u> by a <u>verified</u> motion filed with the court by either party.

▪ The court shall provide such forms as will be used to file a motion for an order showing cause for a violation of a custody, time-sharing or visitation order.

▪ A motion seeking an order of contempt is required to be verified or have an affidavit attached setting forth the relevant order governing the conduct of the parties and the alleged specific act that violated the order.

- The court may:
  1. issue an order to show cause why the answering party should not be held in contempt at a hearing to be held as expeditiously as possible but not later than thirty days after the filing of the motion; or
  2. find a party has violated a custody, time-sharing or visitation order and find a party in contempt and may issue further orders as are in the best interest of the child.

The following are additional remedies that may be issued by the court:

1. imposing additional terms and conditions consistent with the court's previous order;
2. modifying the prior order to meet the best interests of the child;
3. requiring the violator to post bond or security;
4. requiring that makeup visitation or time-sharing be provided the aggrieved party or child within one year after the noncompliance;
5. imposing a fine or jail sentence on the violator;
6. scheduling a hearing for modification of custody or time-sharing;
7. awarding the actual expenses, including reasonable attorney fees and costs; or
8. providing a plan for overseeing and supervising the custody, time-sharing or visitation plan by a court-approved volunteer, guardian ad litem, court clinic professional or other qualified person.

FISCAL IMPLICATIONS

The Administrative Office of the Courts indicates that any additional impact to the judiciary would be proportional to the enforcement of this law and commenced prosecutions and sentencing hearings.

ADMINISTRATIVE IMPLICATIONS

The court needs to produce forms to be used by a party who files a motion for an order to show cause for a violation of a custody, time-sharing or visitation order pursuant to the mandate in the bill.

OTHER SUBSTANTIVE ISSUES

The Administrative Office of the District Attorney indicates that the proposed legislation does not have any apparent significant impact on the delinquency proceedings in Children's Court. Furthermore, it is indicated that the provisions of the Children's Code and of the rules and laws regarding contempt of court do not appear to be impaired in any way by the proposed language which is directed essentially at civil law matters

FC/yr