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FISCAL IMPACT REPORT

SPONSOR: Sandoval DATE TYPED: 02/26/03 HB 924

SHORT TITLE: Amend Resident Abuse & Neglect Act SB _____

ANALYST: Weber

APPROPRIATION

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

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Responses Received From
 Administrative Office of the Court
 Attorney General
 Human Services Department
 Department of Health

SUMMARY

Synopsis of Bill

The Resident Abuse and Neglect Act is a part of the criminal code. House Bill 924 (HB 924) amends the resident abuse and neglect act:

- (1) add that “abuse” as defined under the act includes, but is not limited to, the enumerated list of acts or conduct that appear in the definition,
- (2) amend the definition of neglect to change the standard from “grossly” negligent conduct to “criminally” negligent conduct, and
- (3) clarify the definition of exploitation of the resident’s property to expressly state that the act of converting the resident’s property to one’s own use is exploitation.

Significant Issues

The Attorney General states the following:

- (1) The criminal code must state with specificity the act or omission forbidden by law. The attempt to add to the definition of abuse acts or conduct that are not specified and not enumerated may lead to a constitutional challenge for vagueness.
- (2) The amendment to change the definition of neglect to refer to “criminally” negligent conduct is proposed so that the definition of neglect will conform to the standard established in the current Uniform Jury Instruction relating to criminal neglect.

The Human Services Department is concerned that section 30-47-3 of HB 924 changes the word “grossly” negligent to “criminally” negligent and appears to raise the threshold from gross negligence to criminal intent. This seems to weaken HB 924 and reduce negligent reporting to only that which is criminal. Gross negligence would no longer need to be reported.

The Department of Health adds that while there may be a need to add conduct that constitutes “abuse,” it may be unfair to residential service providers to place the burden on them to interpret abuse without specific guidance of the acts that represent abuse. Since not reporting abuse is a violation of law, it should be specifically defined.

MW/prr/njw