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# FISCAL IMPACT REPORT

SPONSOR _	Vaughn	DATE TYPED	02/16/05 H	<b>B</b> 445
SHORT TITL	E Marriage Defined		S	B
			ANALYS	T Ford

### **APPROPRIATION**

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 597

### **SOURCES OF INFORMATION** LFC Files

Responses Received From

Administrative Office of the Courts (AOC) Attorney General (AGO)

#### SUMMARY

#### Synopsis of Bill

House Bill 445 expressly prohibits a marriage between persons of the same sex, defines marriage as a legal union between one man and one woman as husband and wife, and provides that a marriage between persons of the same sex that is valid in a jurisdiction outside the limits of the state shall not be valid in New Mexico.

#### Significant Issues

While no New Mexico court has ruled on the constitutionality of prohibiting same-sex marriages, a court case has been filed in response to same-sex marriages performed in Sandoval County. In regards to that litigation, the Attorney General has taken the position that New Mexico law currently does not permit same sex marriage.

# CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 597 amends Section 40-1-1 NMSA 1978 defines marriage as a contract between a man and a woman.

### **TECHNICAL ISSUES**

The AGO raises technical issues with the drafting of the bill:

"Section 4 of the bill amending section 40-1-4.A refers to a marriage in another 'country' while section 40-1-4.B refers to another 'jurisdiction'. Assuming that the term 'country' means a foreign country and not another state, it is unclear whether the term 'jurisdiction' is intended to be limited to a foreign country or to include a sister state.

"Section 5 of the bill amending section 40-1-8 requires a conviction in the first sentence but deletes the reference to conviction in the second sentence. We suggest that the framework in both sentences be the same in order to avoid any inconsistent interpretation."

## **OTHER SUBSTANTIVE ISSUES**

If enacted, House Bill 445 would likely be challenged in court.

EF/sb