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FISCAL IMPACT REPORT

SPONSOR Begaye DATE TYPED 3/7/05 HB 583/aHJC
 SHORT TITLE Native American Inmate Religious Practices SB _____
 ANALYST Peery

APPROPRIATION

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

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Defender Department (PDD)
 New Mexico Corrections Department (NMCD)
 Children, Youth and Family Department (CYFD)
 Department of Indian Affairs (DIA)

No Responses

Office of the Attorney General (AG)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee’s amendment to House Bill 583 removes wording pertaining to “protecting” and “protect”. This amendment clarifies the proposed legislation does not protect, but respects Native American religious beliefs.

Synopsis of Original Bill

House Bill 583 requires Native American children placed in foster care, pre-adoptive placement, adoptive placement, or a secure facility; and Native American inmates in correctional institutions in the state be allowed to maintain cultural ties and religious practices and be permitted to participate in activities that strengthen cultural awareness.

PERFORMANCE IMPLICATIONS

NMCD states currently Native American religious practices in state run institutions are protected under the Native American Counseling Act. This bill might expand the number and types of programs required in non-state run institutions. CYFD states the proposed legislation is directly related to the existing agency mission statement focusing on the development of culturally competent programs for clients. CYFD reports they are already engaged in meeting the intent of this proposed bill and continue to explore opportunities to expand and develop programs and services for Native American clients.

FISCAL IMPLICATIONS

NMCD states there is no direct or immediate fiscal impact on the Department. However, the future requirement that all private institutions comply with the act may increase the cost of contracting out and may increase the difficulty of finding private parties willing to contract with the Department.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

PDD and DIA state the proposed legislation conflicts with the proposed revisions to the children's code in Senate Bill 233.

DIA states that Section 2 of House Bill 583 somewhat relates to Senate Bill 214 and House Bill 223 regarding placement of an Indian child (Cultural Awareness Section 32A-18-4).

TECHNICAL ISSUES

NMCD reports the definition of "Department" in the proposed legislation is expanded to include the Secretary as well as the Corrections Department. NMCD states this could be read to hold the Secretary personally responsible.

NMCD states the last paragraph of the bill is language requiring the Secretary to report finding on privately run corrections facilities to the "appropriate" legislative committee. NMCD feels because "appropriate" is not defined it could create confusion in the future.

NMCD reports the proposed legislation has no provision for the status of contracts already in existence at the time the bill goes into effect.

OTHER SUBSTANTIVE ISSUES

NMCD reports the proposed legislation does not address the status of county facilities that house state prisoners by agreement. NMCD states most non-state run facilities in the state fall into this category.

DIA reports the placement of a delinquent Indian child into a culturally inappropriate environment that does not respect the child's religious beliefs threatens the survival of tribal communities at their core. DIA states placement of a delinquent Indian child must consider his/her traditional religion, practices and the unique perspective and worldview that the child has learned from his or her tribal community.

DIA states most Native American inmates encounter severe problems while incarcerated because the correctional facilities lack the understanding and respect for the unique Indian religious traditions and practices. DIA reports not allowing Native American inmates to practice their religion is detrimental to the spiritual, emotional and mental well-being of the inmates.

RLP/njw:yr