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FISCAL IMPACT REPORT

SPONSOR Adair DATE TYPED 3/3/05 HB _____

SHORT TITLE Parental Consent for Body Art and Piercing SB 80/aSPAC

ANALYST Medina

APPROPRIATION

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

(Parenthesis () Indicate Expenditure Decreases)

Relates to the Public Health Act (Section 24-1-1 through 24-1-28 NMSA 1978)
Relates to SB 81

SOURCES OF INFORMATION

LFC Files

Responses Received From
Department of Health (DOH)
Attorney General (AG)

SUMMARY

Synopsis of SPAC Amendment

The Senate Public Affairs Committee amendment strikes the word “from” and the comma on page 1, line 24; and on line 25 of the same page substitutes the word “or” for the word “and”. This change allows for parental consent for the administration of body art upon a minor to be provided by the parent’s presence or by the parent’s provision of a notarized consent form.

The amendment further eliminates the requirement that the parent or legal guardian personally deliver the notarized informed consent form to the person administering the body art or body piercing and remain present throughout the administration of the body art or body piercing. Finally, the amendment eliminates the requirement that delivery of the informed consent form by the minor is not sufficient to permit the administration of the body art or body piercing, and the requirement the parent or guardian giving consent present photo identification.

Synopsis of Original Bill

Senate Bill 80 requires parental or legal guardian consent, in the form of a notarized consent form and the physical presence of the parent or guardian, for the administration of body art or body piercing upon a minor. Body art refers to tattoos and body piercing refers to piercing any part of the body except for the ear.

Significant Issues

Senate Bill 80 does not include a regulatory or enforcement provision.

According to the Attorney General:

“Body art is defined in SB 80 as the performance of certain procedures by someone other than a state-licensed physician or a person acting under the supervision of a state-licensed physician. It is not clear whether these same procedures, if performed by a state-licensed physician or under the supervision of a state-licensed physician, would require parental consent.”

According to the Department of Health:

“Tattooing, body piercing and scarification are currently largely unregulated in New Mexico. Transmission of infectious diseases by potential contamination of equipment used for these practices is a legitimate public health concern. Epidemiological research has established not only biologic plausibility but also survey-based evidence that blood borne pathogens such as hepatitis B and C viruses may be transmitted through contaminated body art equipment. Tattooing and body piercing are similar to certain medical and dental procedures that involve penetrating body tissues with foreign bodies, thereby potentially introducing infectious agents. Because medical and dental procedures are regulated in order to reduce the risk of acquisition of infectious diseases, it is appropriate to consider body art for similar regulation.

It is unclear whether SB 80 is directed to all practitioners of body art and body piercing, whether commercial or not, and cultural or not. There are reportedly some Native American practices that may involve scarification and this bill does not indicate whether parental consent would be required in these cases.

By requiring notarization of consent, parental/legal guardian presence throughout the procedure and photographic identification of the parent/legal guardian, the bill may discourage body art or body piercing for some minors.”

PERFORMANCE IMPLICATIONS

According to the Department of Health, this bill is consistent with the Comprehensive Strategic Plan’s priority of reducing the transmission Hepatitis C, a readily transmissible blood borne virus.

ADMINISTRATIVE IMPLICATIONS

The agency responsible for monitoring practitioners would potentially require both personnel and administrative support to effectively monitor compliance.

RELATIONSHIP

Senate Bill 81 prohibits the administration or offer to administer body art upon a minor.

OTHER SUBSTANTIVE ISSUES

According to the Department of Health:

“Tattooing, body piercing and scarification involve the penetration of body tissues by needles. In tattooing and body piercing, foreign bodies are introduced into body tissues that are susceptible to infection. Clearly it is important that instruments that penetrate susceptible tissue are free of materials capable of transmitting infectious diseases. Of particular importance are blood borne viral infections that can establish serious chronic diseases, including human immunodeficiency virus (HIV), hepatitis B and hepatitis C. Bacterial infections such as staphylococcal and streptococcal infections can also occur as a result of skin piercing, which may become life threatening.

Although the risk attributable to tattooing in the transmission of hepatitis and HIV infection is not known, several lines of evidence support that body art procedures could transmit these infections. It is appropriate for hygienic standards for these practices be established and regulated. Despite data that supports tattooing as a potential risk factor for acquiring blood borne viral infections, it is often not possible to estimate the number of infections acquired by this route since there are often confounding risk factors such as injection drug use present.”

ALTERNATIVES

According to the Department of Health, an alternative would be to modify this bill to consider regulating establishments rather than individuals.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

Persons who administer body art or body piercing would not be required to obtain parental consent before doing administering body art or body piercing to a minor.

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