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FISCAL IMPACT REPORT

SPONSOR Adair DATE TYPED 1/31/05 HB _____

SHORT TITLE Prohibit Body Art for Minors SB 81

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)
Companion to SB 80

SOURCES OF INFORMATION

LFC Files

Responses Received From
Attorney General

SUMMARY

Synopsis of Bill

Senate Bill 81 amends the Public Health Act to make it unlawful for any person other than a state-licensed physician or a person under the supervision of a state-licensed physician to administer or offer to administer body art upon a minor. Body art is defined as tattooing or any other form of pigment implantation on the skin and scarification or branding of the skin.

Significant Issues

Senate Bill 81 does not include a regulation or enforcement provision.

According to the Attorney General's staff analysis:

“Complete prohibition of body art upon a minor may be subject to First Amendment challenge, although in Hodge v. S.T. Lynd, the federal district court, before deciding that County fair dress code infringed on patron's liberty interests, agreed that tattoos are simply a form of self-expression, not speech protected by First Amendment. 88 F.Supp. 1234, 1237 (D.N.M. 2000) (citation omitted).”

ADMINISTRATIVE IMPLICATIONS

In the event of a judicial challenge to this legislation, or any other law or regulation that may be impacted by it, the Office of the Attorney General anticipates administrative implications.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 80 requires parental or legal guardian consent for the administration of body art and body piercing upon a minor.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

The administration or offer of administration of body art upon a minor would continue to be lawful.

DXM/lg