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FISCAL IMPACT REPORT

SPONSOR Feldman DATE TYPED 1/25/05 HB _____

SHORT TITLE Guardianship Arrangement Study SB 143

ANALYST Collard

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	\$150.0			Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates HB 143

SOURCES OF INFORMATION

LFC Files

Responses Received From

Developmental Disabilities Planning Council (DDPC)
Children, Youth and Families Department (CYFD)

SUMMARY

Synopsis of Bill

Senate Bill 143 appropriates \$150 thousand from the general fund to DDPC for the purpose of identifying the number of adults who are under probate court guardianship status, listing guardians who have responsibility to file annual reports and reviewing guardianship arrangements to ensure the needs of incapacitated adults are being met.

DDPC indicates \$100 thousand will be used for a pilot project to conduct a random sample of visits in three judicial districts to determine the status of the wards, such as evaluation of the ward's placement and evaluation of ward's care, and to provide instruction on submission of the required annual report.

The remaining \$50 thousand will be transferred to the Administrative Office of the Courts to review the current guardianship records and identify the current incapacitated adults with guardians in New Mexico.

DDPC states the project will operate under the oversight of a multidisciplinary governance body consisting of, but not limited to representatives of: Administrative Office of the Courts, New Mexico Supreme Court, district judges, Office of Guardianship, Aging and Long Term Services Department, Children Youth & Families Department, New Mexico Protection & Advocacy, New Mexico Guardianship Association, New Mexico Highlands University, New Mexico State University, University of New Mexico and guardians.

Significant Issues

DDPC indicates Administrative Office of the Courts data states only 12 percent of the required statutory annual reports are filed. The courts do not have an accurate data tracking system and the total numbers of guardians/wards in New Mexico cannot be given a precise count. There is a statutory penalty for not filling the annual report, but the courts do not check to see who has filed, so there is no effective oversight of many of the guardians and wards once the guardianship is ordered.

CYFD indicates its Adult Protective Services (APS) program establishes approximately 110 new guardianships each year. With recent funding restrictions limiting the number of guardianships available, monitoring the total number of guardianships in existence became critical for all entities needing these services for their clients.

CYFD also notes the Office of Guardianship began to monitor the number of guardianships established in FY05, to track performance and mandatory reporting and to track the movement of cases from private pay to indigent slots. However, the large number of cases, problems identified by a task force and external team of experts, and incomplete reporting require a comprehensive study and analysis.

PERFORMANCE IMPLICATIONS

CYFD indicates a detailed and accurate report of the number of cases and a resulting analysis of the actual funds available for new slots would allow APS to make better use of an important resource for its clients. It is important to note that APS will transfer to the Aging and Long-Term Services Department (ALTSD) in July 2005. Therefore, the performance implication will relate to ALTSD and not CYFD.

FISCAL IMPLICATIONS

The appropriation of \$150 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY06 shall revert to the general fund.

DDPC notes this one-time allocation may require additional resources to address and identify future problems.

ADMINISTRATIVE IMPLICATIONS

CYFD states, as a result of the study, APS may experience an increase in the availability of professional guardianship slots for adults who lack decisional capacity and have no other decision makers. This is a necessary resource for adult victims of abuse, neglect and/or exploitation, as

APS cannot intervene (except with short-term emergency placement) without a surrogate decision maker.

DDPC notes there are two components of administration oversight to this allocation: (1) DDPC will provide administrative oversight on the pilot study of ward visits and (2) the Administrative Office of the Courts will provide oversight of an administrative assistant to review and update the court records.

DUPLICATION

Senate Bill 143 duplicates House Bill 143.

TECHNICAL ISSUES

DDPC notes the Office of Guardianship has no authority over private, family, or volunteer guardianship; and there is currently no oversight or enforcement in this area.

KBC/lg