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FISCAL IMPACT REPORT

SPONSOR Rawson DATE TYPED 3/3/2005 HB _____

SHORT TITLE Child Protective Service Complaint Notices SB 1021

ANALYST Dunbar

APPROPRIATION

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

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Children Youth and Families Department (CYFD)

Health Policy Commission (HPC)

Attorney General (AG)

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

Senate Bill 1021 amends Section 9-2A-8 NMSA 1978 (Department Additional Duties) with new language requiring the inclusion of “training for protective services division employees involved in a preliminary investigation pursuant to Section 32A-4-4 NMSA 1978” (Complaints; Referral: Preliminary inquiry Section of the Child Abuse and Neglect Act). The bill also amends Section 32A-4-4 NMSA 1978” (Complaints; Referral: Preliminary inquiry Section of the Child Abuse and Neglect Act) requiring child protective services investigators to advise alleged perpetrators of basic rights “and any specific allegations that gave rise to the investigation”.

Significant Issues

CYFD reports that the training requirement described in this bill is already being provided. CYFD provides protective services employees involved in preliminary investigations with extensive training regarding disposition, placement under the Children’s Code and parents’ rights.

The following comments were provided by the AG:

- Due process requires fundamental fairness. In protective service proceedings, the court will consider a parent's significant interest affected by the proceeding, the value of additional safeguards and the risk of an erroneous deprivation unless alternative arrangements are made, and the state's vital interest in protecting the welfare of children. State ex rel. Children Youth and Families Dept. v. Christopher L., 2003- NMCA-068, 133 N.M. 653, 68 P.3d 199 (N.M. App. 2003).
- When a child has been taken away from the parents and into the State's custody, both children, youth and families department and the court have a constitutional duty to ensure that a parent's due process rights are protected at each stage of the proceedings that lead up to and include termination of those rights. State ex rel. Children, Youth and Families Dept. v. Maria C., 2004-NMCA-083, 136 N.M. 53, 94 P.3d 796, (N.M. App. 2004).
- These amendments that direct CYFD to develop rules to train employees on the correct procedure for engaging in a preliminary child abuse investigation, and to have these employees give the parents the specific reason for the investigation are supported by current NM caselaw on the constitutional due process to which parents are entitled.
- Parent's fundamental constitutional rights to privacy are affected in child protective service investigations. The state has both the right and the obligation to protect children, and must investigate complaints of child abuse. The rights of the state, the child and the parents must be balanced, however. To give parents the specific reason for the investigation should not unduly burden the Department, and may be seen by the court as an additional safeguard in what may develop into the loss of parental rights.

PERFORMANCE IMPLICATIONS

CYFD is subject to regular compliance monitoring for the training required in this bill as federal requirements under Child Abuse Prevention and Treatment Act and Adoptions and Safe Families Act.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

A Senate Floor Amendment to Senate Bill 233, Children's Code Revisions, included language that is being suggested in this bill.

OTHER SUBSTANTIVE ISSUES

Per the Children, Youth and Families Department Annual Report, Child Protective Services received 29,443 reports of Child Abuse/Neglect in FY04, up significantly from 26,087 reports in FY03. The number of investigations conducted by Child Protective Services was 15,937 in FY04 and 15,626 in FY03. The FY05 budget for Protective Services was reported as \$99,342,600.

HPC says that additional training for Child Protective Services employees involved in investigation of complaints of child neglect or abuse, will help them to be better prepared in their jobs. .

HPC states that notification to the involved parties, at the beginning of an investigation, of the specific allegations that initiated the investigation would appear to be an appropriate action, and may serve to lessen the stress of an intense situation.

BD/lg