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FISCAL IMPACT REPORT

SPONSOR Stewart **ORIGINAL DATE** 3/17/2007 603/SFIS/aSFI#1/a
LAST UPDATED 3/17/2007 **HB** HHGAC
SHORT TITLE Contractual Common Household Act **SB** _____
ANALYST Schuss

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	\$.1 see narrative		recurring	Children's Trust Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$.1 see narrative	Unknown	Unknown	Recurring	General

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of HHGAC Amendment

The House Health and Government Affairs Committee amendment strikes the first senate floor amendment, and amends the bill title to read:

Relating to domestic affairs; enacting the Domestic Partner Rights and Responsibilities Act.

The amendment strikes the Senate Floor substitute and returns the bill to its original version with some exceptions. The fee of \$25 was defined as a license fee in the original bill; it is now defined as a registration fee. The bill clarifies jurisdiction issues with the original bill in Section 4.

The synopsis of the amended bill is as follows:

HB 603 enacts the Domestic Partner Rights and Responsibilities Act.

Section 2: Defines terms used within the Act, including “domestic partner” to mean “an adult who has chosen to share in another adult’s life in an intimate and committed relationship of mutual caring and support and who has established a domestic partnership.” “Domestic partnership” is defined to mean “the legal relationship two domestic partners establish with each other,” provided the partners:

- share a common residence;
- are the age of majority;
- are capable of consenting;
- are not married to another and are not part of a valid domestic partnership or a civil union recognized in another state; and
- are not related by blood in a way that prevents marriage under the laws of New Mexico.

Section 3: Provides that a domestic partner has the same rights, protections and benefits under the law as a spouse in marriage, including parental rights. The Act provides that a domestic partner shall use the same filing status as is used on a federal income tax return. Earned income shall not be treated as community property for state income tax purposes.

Section 4: Provides that the district court has jurisdiction over all proceedings relating to domestic partnership. Provides that the court shall follow the same procedures as are used for spouses in a marriage, except that a domestic partnership registered in this state may be filed in the district courts even if neither domestic partner is a resident of, or maintains a domicile in, the state. Nothing in this section shall be construed as granting jurisdiction in conflict with the Uniform Child-Custody Jurisdiction and Enforcement Act as adopted in New Mexico.

Section 5: Provides for legal recognition of other legal domestic partnership unions other than marriage formalized in other jurisdictions.

Section 6: Requires an adult wishing to form a domestic partnership to file an affidavit from the secretary of state or a county clerk. HB 603 provides that \$15 of each registration fee shall go to the Children’s Trust Fund.

Section 7: Sets out the actions taken to establish a domestic partnership, and requires a county clerk to issue, record and index a certificate of domestic partnership.

Section 8: Provides that the filing of an intentionally and materially false declaration of domestic partnership is a misdemeanor.

Section 9: Provides for the form of both an affidavit of domestic partnership and a certificate of domestic partnership.

Section 10: Requires that the Act be liberally construed to carry out its purpose.

Section 11: The Act contains a severability clause.

Fiscal Implications

The bill presumably raises the cost of any state insurance plan who adopts it as it extends coverage to additional people who are subsidized to any degree.

Significant Issues

The AOC raised the following issue with the original bill:

Section 4 provides that a domestic partnership registered in this state may be filed in the district courts of this state even if neither domestic partner is a resident of, or maintains a domicile in, the state at the time the proceedings are filed. Does this mean that an *action* concerning a domestic partnership registered in this state may be filed in the district court absent residency or domicile?

Synopsis of Senate Floor Amendment #1

Senate Floor amendment #1 to House Bill 603 (as substituted and amended) reflects the following language:

1. On page 1, line 22, strike the line after “adults”.

The amendment adds no appropriation to the legislation.

Synopsis of Original Bill

The Senate Floor Substitute for House Bill 603 enacts the Contractual Common Household Act.

Section 2: Defines terms used within the Act and these terms are:

- common household member
- contractual common household
- filing of a contractual common household

Section 3: Contains presumptions of common household members. Common Household members are presumed to:

- be competent to enter a contract to receive benefits that are available to each other separately
- be competent to act as surrogates for each other for the purpose of medical decision-making and to make, revoke or object to an anatomical gift of a decedent ally
- purchase property jointly
- assume for a child born or adopted by one or both common household members all the duties of parentage
- be subject to statutory nepotism restrictions

Section 4: Provides that the Contractual Common Household Act does not affect existing child custody, visitation or parenting agreements, legitimize a child born into or adopted into a contractual common household or legitimize an incestuous sexual relationship between blood relations. A contractual common household involving an incestuous sexual relationship is

prohibited and shall be declared void.

Section 5: Provides that property in a contractual common household shall be classed as separate property or joint property. Separate property and joint property are defined in this section.

Section 6: Provides for the conditions of separate and joint debt of a contractual common household.

Sections 7: Provides that a person shall not enter into more than one contractual common household at a time, and that a married person shall not file a contractual common household until divorced or widowed.

Section 8: Provides that the district court has jurisdiction over proceedings relating to the dissolution of a contractual common household or legal separation of common household members. The district court shall apply the relevant contract provisions for dissolution of a contractual common household.

Section 9: Provides the contractual common household forms.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and resultant district court actions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

There is a \$25 fee to file for a contractual common household. This fee will be collected by the county clerk.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

There may be an administrative impact on the courts as the result of an increase in caseload and/or in the amount of time necessary to dispose of cases.

OTHER SUBSTANTIVE ISSUES

The original bill enacted the Domestic Partner Rights and Responsibilities Act.

BS/mt