

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR Begaye, R ORIGINAL DATE 1/21/08
LAST UPDATED _____ HB 95
SHORT TITLE Expand Jury Duty Exemptions SB _____
ANALYST C. Sanchez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill:

House Bill 95 amends Sec. 38-5-2 (NMSA 1978) to expand exemptions from jury service. Persons who meet the requirements of one of these categories may be excused from jury service at the discretion of the judge or judge's designee.

The exemptions would be:

- An expectant mother or mother who is currently breastfeeding;
- A caregiver for elderly or disabled persons who is scheduled or expected to provide care at the time of jury service, unless providing care is the caregiver's employment or normal course of business;
- A person participating in a cultural or religious practice or ceremony not exceeding 30 days in length; or
- A legislator during legislative session.

FISCAL IMPLICATIONS

This amendment to existing law has the potential of reducing the number of available jurors, thereby increasing the workload of courts and requiring additional resources to handle the extra work of calling larger jury pools, orienting larger numbers of jurors, and screening prospective

jurors for exemption. It is not known how much impact this change might have on the courts' workload.

SIGNIFICANT ISSUES

1. The jury statute was amended in 2005 to add discretionary language for the judge or his designee to excuse persons from jury service, based on undue or extreme physical or financial hardship to the prospective juror or a person under that person's care; an emergency situation that renders the person unable to perform jury service; or showing other satisfactory evidence. State law further defines "undue or extreme physical or financial hardship" to mean circumstances in which a person would "be required to abandon another person under the person's care or supervision due to the extreme difficulty of obtaining an appropriate substitute caregiver during the period of jury service" [Sec. 38-5-2 F(1)(a)]. The court may already excuse individuals in the groups designated in HB 95.
2. Our trial system is based on a jury of one's peers. Automatic excusals limit the diversity of the jury based on various groups of individuals, instead of the person's actual ability to serve. Judges may currently take into account the reasons for excusal set forth in HB 95.
3. In the more rural parts of the state, jurors are already few in number. Increasing the number of automatic excusals may cause the courts to delay jury trials until enough qualified jurors can be found.
4. Excusing expectant or breastfeeding mothers is language that is broader than needed. Many pregnant women continue to work full time until delivery. Census data from 2004 shows that 55% of mothers with infants participated in the labor force, not staying home to care for these young children.
5. Excusal for a caregiver of the elderly or disabled who is scheduled or expected to provide care may also be too broad. HB 95 would, however, require that caregivers who are employed in this capacity or providing care as a normal course of business are not automatically excused from jury service. The 2005 amendment to the jury statute already provides the courts with discretion to excuse any individual caring for an elderly or disabled person, as noted above in #1.
6. Persons participating in cultural or religious practices or ceremonies may also be excused at the court's discretion under existing law.
7. Legislators who are engaged in a regular or special session would also fall within the language of the existing statute. It is extremely unlikely that a judge would not excuse a legislator during a regular or special session and if this is happening we would encourage the legislator to contact the Administrative Office of the Courts.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. HB 95 could impact two performance measures:

- Percent of jury summons successfully executed; and
- Average cost per juror.

The automatic excusals in the bill may increase the total number of jury summonses that must be executed, and could increase the average cost per juror as fewer jurors summoned actually serve.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo. The judge or his designee will continue to exercise discretion in excusing prospective jurors from serving in trials.

CS/mt