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FISCAL IMPACT REPORT

ORIGINAL DATE 1/23/08
 LAST UPDATED 2/14/08

SPONSOR HJC HB CS/227/aSJC/aSFL

SHORT TITLE Domestic Abuse Procedure Changes SB _____

ANALYST C. Sanchez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total			Indeterminable *See Narrative			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Bernalillo County Metropolitan Court (BCMC)
 Public Defender (PD)
 Children Youth and Families (CYFD)

SUMMARY

Synopsis of SFL amendment

The Senate Floor amendment makes technical changes to the original bill.

The amendment has no fiscal impact.

Synopsis of SJC amendment

On page 10, lines 24 and 25, the Senate Judiciary Committee amendment strikes “visitation and temporary support” and inserts in lieu thereof “and visitation”.

The amendment has no fiscal impact.

Synopsis of Bill

The proposed House Judiciary Committee substitute HB 227 would make the following changes to the original HB 227 bill:

- would not require the alleged victim of domestic abuse, under Section 40-13-3.1 NMSA 1978, to bear the cost of witness fees, including expert witnesses; however, a law enforcement officer would be barred from charging a witness fee for appearing at a hearing pursuant to the Family Violence Protection Act;
- would amend Section 40-13-4 NMSA to allow a court that has granted a temporary order of protection to award custody, visitation and temporary support; and
- would amend the section to the Family Violence Protection Act regarding limitations on internet publication of information relating to, among other things, the issuance and registration protection orders.

FISCAL IMPLICATIONS

There will be minimal cost to the Judicial Information Division to change programming of the Case Look-Up System so that the public no longer has access to the courts database system of orders of protection. The courts were planning to remove access prior to the introduction of this bill.

There will be costs associated with creating legal forms and definitions for the new orders of protection for *non-household member* victims and perpetrators of stalking, sexual assault and cyberstalking as well as costs associated with changing all current standard forms to comply with changes in statutory language relating to identity of the parties and training for court staff, judges hearing officers and law enforcement

SIGNIFICANT ISSUES

Often victims are unable to leave an abusive relationship due the economic abuse imposed by perpetrators who do not provide the victim knowledge of or access to family income. The bill's amended language would clarify that an alleged victim of domestic violence, sexual assault, or stalking is not required to bear any costs related to the petitioning, filing, and prosecution of a misdemeanor or felony offense.

Under the proposed bill, the definition of domestic abuse would be amended to include “incidents of stalking, cyber stalking or sexual assault whether committed by household member or not.” The expansion in the definition allows victims of alleged sexual assault and/or stalking to seek orders of protection. According to data from the New Mexico Interpersonal Data Central Repository on the Incidence and Nature of Domestic Violence in New Mexico VII, law enforcement reported 245,631 incidents of stalking in 2005, with 44% of these individuals reporting that they were injured as a result of the incident. In addition, respondents to the Statewide Victimization Survey, regardless of race or ethnic category, report that violent, crime, domestic violence, sexual assault, sexual harassment, and stalking are more of a problem for women today.

CYFD currently uses this definition to determine individual eligibility for domestic violence services. CYFD would need to adjust the language in the current Domestic Violence Service Definition manual to reference only domestic abuse against household members, and to ensure the inclusion of the revised definition of sexual assault and stalking contained in this bill would not negatively impact CYFD domestic violence programs. Funding for sexual assault programs is administered through the Department of Health.

The bill also seeks to place limitations on access to the New Mexico Judiciary’s website that has provided public information relating to domestic violence orders of protection, but mandating the courts remove public access to information about the identity and physical location of the victims in these cases.

The bill amends and clarifies certain language used in the Family Violence Protection Act to more uniformly describe the parties to the actions, and to mirror language in the act on payment of costs associated with orders of protection to the amendments to the criminal code on the same issue.

ADMINISTRATIVE IMPLICATIONS

The courts will have to design, provide and publish new forms and legal processes for non-household member victims and perpetrators of stalking, cyberstalking and sexual assault and modify existing programming of the case look-up system to block public access to statewide files on orders of protection.

CONFLICT

HB 312

TECHNICAL ISSUES

The criminal code of New Mexico does not define a crime known as “cyberstalking”, nor is it defined in the proposed amendments to the Family Violence Protection Act.

OTHER SUBSTANTIVE ISSUES

The proposed amendments to the Family Violence Protection Act also include new mandates to law enforcement to advise victims that they have a right to file a criminal complaint; and that they notify victims of crimes (as those are defined under the act) anytime an alleged perpetrator (not just a household members) is released from detention and that when an alleged perpetrator is arrested that law enforcement include in the written report of the incident leading to arrest, a statement that the arrestee was the “predominant aggressor”.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo. The state will continue to be in conflict with Violence Against Women Act funding requirements because of the current language in our law which could jeopardize eligibility for future grant funds coming into the state and current funding levels over 5 million dollars.