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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/17/08  
 LAST UPDATED 1/30/08      HB \_\_\_\_\_

SPONSOR Garcia, M.J.

SHORT TITLE Child Advocacy Advisory Council      SB 72a/SPAC

ANALYST C. Sanchez

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	\$288	Recurring	General
	\$150	Non-Recurring	General

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Office of Attorney General (AGO)

Department of Health (DOH)

Administrative Office of District Attorneys (AODA)

### SUMMARY

#### Synopsis of Senate Public Affairs Committee Amendment

The SPAC Amendment to SB 72 proposes to clarify the scope of the multidisciplinary teams to criminal investigations and criminal child abuse cases.

The proposed amendment removes “child abuse and neglect” throughout the bill and replaces the language with “criminal child abuse”. The amendment also adds the word “criminal” before “investigations”. These proposed changes distinguish the applicability of the legislation to criminal investigations only regarding child abuse cases and non-applicability to those civil cases regarding child abuse and neglect. The additional language which provides that the protocols established by the multidisciplinary team will not supersede any state law or agency rule also clarifies the scope of responsibility of the multidisciplinary teams. Additionally, the designation of the membership and duties of the multidisciplinary teams to the criminal code further clarifies the purpose of the legislation.

Adding the secretary of Indian affairs or their designee provides for input from the Native American community to the Child Abuse Advisory Council in regards to criminal child abuse investigations.

### Synopsis of Original Bill

Senate Bill 72 (SB72) would create a child advocacy advisory council to develop, adopt, review, evaluate, and revise a uniform model protocol for the investigation of cases of child abuse and neglect.

SB72 would also create a multidisciplinary child abuse investigatory team in each judicial district in the state. The team shall develop written protocol for the investigation and prosecution of cases of child abuse, and provide training and technical assistance on the protocol to team members, agencies, and medical providers that investigate child abuse and neglect cases. SB72 states that all investigations of child abuse and neglect in each judicial district will be conducted in accordance with the protocol developed.

SB72 appropriates \$260,000 from the general fund to the child advocacy advisory council over three years to assist the judicial districts in carrying out the purposes of this act. Any unexpended or unencumbered balance shall revert to the general fund at the end of FY2012.

SB72 appropriates \$28,000 from the general fund to the 13 district attorney offices for administrative costs. Any unexpended or unencumbered balance shall revert at the end of FY2012.

SB72 appropriates \$150,000 from the general fund to the New Mexico sentencing commission to develop and implement the expansion of the consolidated offender query system. Any unexpended or unencumbered balance shall revert at the end of FY2009.

### **FISCAL IMPLICATIONS**

The bill provides for a total appropriation in the amount of \$288,000.00 in Fiscal years 2009 through 2012 to cover travel and per diem, to cover administrative costs and to assist the judicial districts in carrying out the purposes of the act. It also includes an appropriation of \$150,000.00 in FY09 to the Sentencing Commission to develop and complete the implementation of an expansion of the consolidated offender query system to enable the real-time viewing of child abuse and neglect cases reported to CYFD. Any unused amount shall revert to the general fund at the end of FY09.

The appropriation of \$288 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY09 shall revert to the general fund.

### **SIGNIFICANT ISSUES**

According to the Administrative Office of District Attorneys (AODA), child abuse cases are some of the most challenging cases to prosecute. Young children also make up the largest group percentage wise of victims of sexual abuse in New Mexico according to [The Nature of Sexual Assault in New Mexico: A Description of Survivor, Offender, and Offense Characteristics](#), a

study by Betty Caponera, Ph.D., on behalf of the *New Mexico Coalition of Sexual Assault Programs*, showed 63% were age 17 or younger. Often the victims of these crimes are either so young or so traumatized by the abuse it is very difficult for them to be able to verbalize and articulate what has happened. Safe houses are interview facilities to assist in interviewing these victims which utilize specially trained forensic interviewers to interview the child in such a way that they are not leading or overly suggestive in the questions they ask. This minimizes or eliminates defendants attacking the child's testimony as having been suggested by the type questions asked of the child. These interviews are also video and audio recorded. The interview is usually attended by a representative from the investigative Law Enforcement Agency, CYFD, and the District Attorneys Office. These representatives are able to hear and observe the interview as it is being conducted from another room by use of a close circuit monitor of 2-way mirror. They are also able to communicate with the interviewer by means of a walkie-talkie and an ear bud worn by the interviewer to allow them to have the interviewer ask relevant questions to the child victim. The use of the Safe houses and protocols also minimizes the number of times a child victim has to be interviewed. Without these tools a child victim would be interviewed a minimum of three times prior to charging the defendant, once by Law enforcement, once by CYFD and once by the District Attorney's office. In reality a child victim may be interviewed by several members of the investigating Law Enforcement Agency, several teachers if the school is involved, in addition to being interviewed by CYFD and the District Attorneys Office prior to charging. The use of a protocol and a Safe houses basically consolidates these interviews into one interview which is video taped and can be provided to defense counsel if charges are ultimately filed.

### **PERFORMANCE IMPLICATIONS**

Training and technical assistance is necessary to support the multidisciplinary teams in each jurisdiction to meet the requirements set by the advisory Council.

### **ADMINISTRATIVE IMPLICATIONS**

Administrative Office of the District Attorneys would be the appropriate agency to provide administrative support for the child advocacy advisory council and the thirteen judicial districts.

Potential problems with the bill are that it treats each Judicial District the same as though they each have the same resources, problems and challenges in prosecuting these types of cases. Not only is each district different there are very often very dramatic differences county to county within each District. Many District Attorney's Offices have already developed multi-disciplinary teams and adopted protocols for investigating and prosecuting these types of cases. The AODA is concerned that the development of a standardized protocol for the state may not be flexible enough to meet the needs and challenges of each individual county. For example the bill on page 4, line 16 requires "a representative from a children's safehouse program that exists in the judicial district" shall be a member of the multi-disciplinary team within each judicial district. The reality is that several districts do not have a safehouse within their district. The bill also limits the District Attorney discretion in appointing members of the multi-disciplinary team on page 4 line 21, by requiring "consultation with the director of the New Mexico children's safehouse network".

**OTHER SUBSTANTIVE ISSUES**

Currently there are 36 states that have adopted legislation mandating Multidisciplinary/Multi-Agency Child Protection teams. A multidisciplinary approach to criminal child abuse investigations has become the model for improving the response to child abuse. There are nine MDT teams operating informally in New Mexico. Due to the great disparity in resources between urban and rural communities in the state, mandating the multi-disciplinary teams will assist with the uniformity of criminal investigations and prosecution of child abuse cases in New Mexico.

Automated tracking of child abuse cases to the consolidated offender query system and expanding this access to those involved in child abuse investigation replaces the current method of providing this information to law enforcement via facsimile.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Inconsistency throughout the state in the management of child abuse cases, inconsistent and ineffective system resolution, insufficient data collection systems

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