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FISCAL IMPACT REPORT

SPONSOR: Picraux DATE TYPED: 03/07/03 HB 514/aHJC
 SHORT TITLE: Clarify Parentage in Assisted Reproduction SB _____
 ANALYST: Dunbar

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			See Narrative		

(Parenthesis () Indicate Expenditure Decreases)

Relates to: NMSA 1978 sections 24-14-13, 40-11-2, 40-11-5, 40-11-6.

SOURCES OF INFORMATION

Responses Received From
 Department of Health (DOH)
 Attorney General Office (AGO)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment clarifies language in Section 4A pertaining to assisted reproduction. The change was recommended by the AGO. The change indicates that both parents will be treated as the natural parents upon consent being provided in writing in the assisted reproduction process.

Synopsis of Original Bill

House Bill 514 amends the Vital Statistics Act, clarifies parentage in assisted reproduction, and amends part of the Uniform Parentage Act. HB 514 addresses surrogacy issues that have come about since the 1978 Vital Statistics Act.

Significant Issues

The surrogacy issues need to be addressed in order that parentage is clear for legal, medical and familial reasons. However, leaving it to the hospitals to collect this information is seen as problematic for DOH. The hospitals only see the mother who gives birth for a brief time, often less than 24 hours. If HB 514 anticipates the hospital's collection of such information, the Department of Health (DOH) Vital Records and Health Statistics (VRHS) is concerned this may not be done in a manner to implement the act. The legal and medical information regarding surrogacy

should be prepared, determined, clarified and presented in a legal format prior to the birth. Copies should be provided both to the hospital and to VRHS to protect the child.

FISCAL IMPLICATIONS

Additional staff time would be required for follow-up with hospitals. Staff is not available for this additional work.

ADMINISTRATIVE IMPLICATIONS

Follow-up to hospitals would be necessary to obtain all the required information. In 2002, over 9,144 affidavits of paternity were filed with VRHS, requiring extensive follow-up from Vital Records staff. In 314 of the 6,286 hospital cases, substantive amounts of time were required to obtain a relatively simple affidavit. The more complex information the hospital may be required to obtain by this act may leave some children without proper parentage.

TECHNICAL ISSUES

DOH notes that Page 2, line 6 would make changes to the Vital Statistics Act without identifying them as changes. Page 7, lines 24-25, Page 8, lines 1-15, Page 9, lines 12-13 would make a change that appears to add new material to the Uniform Parentage Act but does not identify the material as new.

Page 2, line 24 "genetic mother" may require a definition; it is not clear that the definition is in line with the proposed Uniform Parentage Act.

OTHER SUBSTANTIVE ISSUES

Page 3, lines 16-25: The hospital only knows the woman who delivers the child. Thus, the paperwork (court orders, parentage information, medical information) showing parents/genetic mother should not, according to DOH, be left to the hospital to complete, but rather prepared in advance of the birth.

In cases of surrogacy, medical problems can be a result of either the genetic mother or the gestational carrier; therefore, medical information on both women should be collected as important both to the child and health information statistics. The National Center for Health Statistics requests medical information on both women to determine if children born of surrogacy fare differently than other children.

VRHS is not qualified to respond to changes in the Uniform Parentage Act except to note such changes do affect the filing of parent information and all the legal and financial benefits and responsibilities that accrue from parentage.

AMENDMENTS

Page 3, beginning line 16 F. "At or before the birth of a child to an unmarried woman, the person in charge of the institutions, a designated representative, the attending physician, ~~or~~ midwife or the vital records and health statistics office of the public health division shall:

House Bill 514/aHJC -- Page 3

P. 10, line 20 The physician shall provide the medical history and known genetic information regarding the donor(s) of gametes and shall certify their signatures.

AGO suggests that in Section 4 of the bill, which amends § 40-11-6, on line 2 of page 10, add a phrase like “person and the” after the word “the” and before the word “spouse”, and in the third line on page 10, change “parent” to “parents”.

BD/prr