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FISCAL IMPACT REPORT

ORIGINAL DATE 3/20/07

SPONSOR Stewart LAST UPDATED _____ HB 4

SHORT TITLE Domestic Partner Rights and Responsibilities Act SB _____

ANALYST Geisler

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 Bill

House Bill 4 enacts the Domestic Partner Rights and Responsibilities Act. A synopsis of the bill is as follows:

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 a 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 someone else 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, benefits and responsibilities under the law as a spouse in marriage, including parental rights and obligations. Definitions in law and rule applicable to marriage shall apply equally to a domestic partnership.

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 dissolution, annulment or legal separation of 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 for issuing and recording a certificate of domestic partnership 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 and record a certificate of domestic partnership in the record 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

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 domestic partnership. This fee will be collected by the county clerk. Fifteen dollars of each registration fee will be transferred to the children's trust fund.

SIGNIFICANT ISSUES

Although the bill is clear that domestic partners are entitled to the benefits accorded to spouses in marriage, it is unclear whether, in circumstances where spousal benefits are contractual, e.g. under a collective bargaining agreement or other contract, the bill could have the effect of conferring the same benefits to domestic partners. Several bills during the 2007 session sought to ensure that domestic partners were able to receive the same health insurance benefits as married couples.

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.

GG/mt