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FISCAL IMPACT REPORT

SPONSOR Stewart **ORIGINAL DATE** 02/07/11
LAST UPDATED 02/27/11 **HB** 56/aHJC

SHORT TITLE Uniform Child Abduction Prevention Act **SB** _____

ANALYST Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the District Attorney (AODA)
Public Defender Department (PDD)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment changes “and” to “or on page2, line 3, clarifying that a child-custody determination includes any one of four types of orders: permanent, temporary, initial or modification.

Synopsis of Original Bill

House Bill 56, introduced on behalf of the Courts, Corrections and Justice Committee, enacts the Uniform Child Abduction Prevention Act. This bill authorizes a New Mexico court, on its own motion in a child custody proceeding or on the motion of a party to or an individual who could seek a child custody determination or a prosecutor acting under authority of existing child custody statutes, to order abduction prevention measures upon a finding that there exists a credible risk of abduction.

The bill identifies a broad-ranging list of factors to determine the existence of a risk of abduction, including previous abduction of the child, threats to abduct the child, acts of domestic violence, stalking or child abuse or neglect, and recent activity such as abandonment of employment, sale of a residence, closure of bank accounts, and obtaining passports.

The court may issue a warrant to take physical custody of the child or authorize law enforcement to take reasonably necessary action to locate and return the child to prevent imminent abduction.

In addition, the court may impose travel restrictions, may prohibit the removal of the child from the state, and may impose conditions on the exercise of custody including limiting visitation or requiring supervised visitation.

This bill contains a delayed effective date of January 1, 2012.

FISCAL IMPLICATIONS

Because the proposed Act would supplement existing law as to child custody matters, it is not anticipated that additional resources or funding will be necessary.

SIGNIFICANT ISSUES

Child abduction is a serious problem. The National Conference of Commissioners on Uniform Acts (NCCUSL), in the prefatory note to the 2006 draft of its Uniform Act, reported that an estimated 262,100 children were abducted in 1999. Seventy-eight percent of those children were abducted by a family member. There are 1773 family abductions for every stranger abduction. Approximately 1000 of the abductions are international.

The NCCUSL advises that many abductions occur before the court has entered an order or decree concerning the custody of the child. Families going through custody disputes and divorce proceedings are the highest risk group for potential abductions. Many existing custody determinations do not contain sufficient provisions to prevent an abduction because the orders are too vague or contain no restrictions. Judges need information about abduction risk factors so that they can place appropriate restrictions to prevent abductions either pre or post decree. Dealing appropriately with the risk factors at the time of a custody dispute or family law proceedings may be the best way to protect children from abduction.

According to the AODA, this bill is designed to supplement and expand a court's authority under the Uniform Child-Custody Jurisdiction and Enforcement Act, NMSA 1978, §40-10A-101-405 ("UCCJEA"). It provides additional authority, procedures and enforcement measures to prevent child abductions in the context of divorce, custody, visitation, separation, neglect, abuse, dependency and paternity proceedings and to provide protection in domestic violence cases.

AODA reports that the risk factors set out in Section 7 of HB 56 were derived from a 1998 study on international abduction conducted by the American Bar Association Center on Children and the Law and funded by the Department of Justice. These risk factors have been adopted by a number of states, including Texas and Vermont, that have adopted this Uniform Act.

OTHER SUBSTANTIVE ISSUES

The AODA reports that by 2008, eleven states (California, Colorado, Florida, Kansas, Louisiana, Nebraska, Nevada, Oregon, South Dakota, Texas and Utah) had adopted this uniform act. Additionally, Idaho, Michigan, New Hampshire, Pennsylvania and South Carolina were considering enacting it.

This bill provides no criminal penalties. Existing statutes, NMSA 1978, § 30-4-1-4, provide penalties for kidnapping and custodial interference.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

New Mexico and its courts will not have this additional tool in preventing child abductions.

MD/bym:svb