

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 02/07/11
 LAST UPDATED 02/25/11 **HB** 158/aHJC

SPONSOR Park

SHORT TITLE Requirements for Adoption Advertisement **SB** _____

ANALYST Peery-Galon

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$25.0 to \$50.0	\$25.0 to \$50.0	\$50.0 to \$50.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Attorney General's Office (AGO)
 Children, Youth and Families Department (CYFD)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment for House Bill 158 clarifies that the disclaimer must state the provider is not "accredited, certified or licensed" to provide adoption services within New Mexico.

Synopsis of Original Bill

House Bill 158 prohibits unauthorized adoption service providers from advertising their adoption services unless the advertisement includes a specific disclaimer. The disclaimer must state that the provider is "not authorized or permitted to provide adoption services within New Mexico." Individuals that violate the new provision will be guilty of a misdemeanor. Also, violations of the new provision will constitute unfair and deceptive trade practices pursuant to the Unfair Practices Act.

FISCAL IMPLICATIONS

AOC noted any fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions as well as the additional time necessary to review accounting of disbursements required by the proposed legislation. There may be an increase in the amount of work that needs to be done by the courts, thus requiring additional resources to handle the increase.

AGO noted the enforcement of the proposed legislation would be pursuant to the New Mexico Unfair Trade Practices Act. The Attorney General's Office would be responsible for enforcement; however, the proposed legislation does not provide for any additional funds or personnel to aid with the additional duties established. Based on this information a minimal fiscal impact to the AGO's operating budget was estimated between \$25 thousand to \$50 thousand annually.

SIGNIFICANT ISSUES

CYFD noted the proposed legislation requires those individuals not licensed or authorized by the Adoption Act to provide adoption services in the state of New Mexico to identify themselves as such in any type of advertisement for adoption services. New Mexico residents may be drawn in by expensive and misleading adoption advertising placed by entities that are not licensed or permitted to provide adoption services here, and these residents may then be vulnerable to predatory adoption practices. Any person violating the provisions of the proposed legislation is guilty of a misdemeanor and subject to imprisonment in the county jail for a term of less than one year or to the payment of a fine of not more than one thousand dollars (\$1,000), or both, the penalties to be in the discretion of the judge.

AGO noted the proposed legislation permits any person not allowed or permitted to provide adoption services in New Mexico to advertise, so long as they adequately disclose. AGO reported the proposed legislation may be in conflict with Section 57-15-1 NMSA 1978 which prohibits false advertising, including the furnishing of any service in this state.

AGO stated attempting to ascertain what print size is generally used in the advertisement will be problematic as print sizes generally differ. For example, outdoor advertising generally use print size that will be substantially larger than the generally used print size in television. Another problem involves determining if the disclosure was spoken at the same pace and volume as that generally used in the advertisement.

PERFORMANCE IMPLICATIONS

AOC reported the proposed legislation may have an impact on the measures of the district courts in the following areas: cases disposed of as a percent of cases filed and percent change in case filings by case type.

ADMINISTRATIVE IMPLICATIONS

The Attorney General's Office would need additional personnel to aid with the enforcement of the proposed legislation.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

CYFD noted that House Bill 158 has a relationship with House Bill 125 which also seeks to protect the public from predatory adoption practices.

RPG/bym:svb