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FISCAL IMPACT REPORT

ORIGINAL DATE 03/09/11

SPONSOR Boitano LAST UPDATED _____ HB _____

SHORT TITLE Parental Divorce Reduction Act SB 556

ANALYST Burrows/Earnest

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Mental Health Counselors	\$0.0	See Fiscal Implications Section			Recurring	SGF/TANF Funds
TANF Grants	\$0.0	See Fiscal Implications Section			Recurring	TANF Funds

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Human Services Department (HSD)

SUMMARY

Synopsis of Bill

Senate Bill 556 would create the Parental Divorce Reduction Act, the purpose of which is to reduce unnecessary divorce, decrease parental conflict and litigation, and educate couples on the impact of divorce on families.

The bill would require parents of minor children to complete a six-hour divorce reduction curriculum, followed by an eight month waiting period before obtaining a divorce unless:

- The court issued an order of protection against the respondent arising out of an act of domestic violence against the petitioner or a minor child of either party;
- The respondent was convicted of a crime pursuant to the Crimes Against Household Members Act or a sexual offense against the petitioner or a minor child;
- The respondent was convicted of a felony and sentenced to five or more years;
- A court found the respondent to be addicted to alcohol or drugs and refuses to undergo rehabilitation; or
- The respondent has abandoned the petitioner and the marriage for the preceding 12 months without the petitioner's consent or any justification.

The required curriculum would be taught by a certified instructor, and would include materials and discussion related to the effects of divorce on minor children and the parties to divorce, and the development of relationship skills. The curriculum would include domestic violence and substance abuse information and referrals, if appropriate. The parties would be allowed to attend separate class sessions.

The Human Services Department (HSD) is required to approve at least one online curriculum program for persons who live in counties where an in-person curriculum is not regularly offered. If no online program has been approved, the curriculum requirement would be waived for such persons.

The requirements of the curriculum would be met when both parties receive a certificate of completion, or when the respondent fails to complete the required curriculum within one month of receiving at least one-week advance notice from the petitioner of times and locations of available class sessions. If the respondent has not completed the divorce reduction curriculum as outlined, the court may impose appropriate sanctions.

The bill requires an eight-month reconciliation and reflection period to begin once the divorce reduction curriculum requirements are completed. A petition for dissolution of marriage shall not be filed until eight months after the petitioner gives notice to the respondent of the intention to file for divorce.

The bill would require the parties to the divorce to pay for the costs of the program. However, the court may waive the fee for indigent parties, and grants may be provided by the HSD from the temporary assistance for needy families funds (TANF).

The effective date of the provisions related to the curriculum development requirements of this bill is July 1, 2011. The remaining provisions of this bill would go into effect on January 1, 2012.

FISCAL IMPLICATIONS

SB 556 provides no appropriations to implement or maintain the provisions of the bill other than fees charged to the petitioners. HSD indicates, however, there “would be start-up costs and it is difficult to forecast if fees will sustain the program.”

SB 556 indicates the HSD may provide grants to assist needy families with the fees using Temporary Assistance to Need Families (TANF) block grant funding. HSD notes there is insufficient TANF block grant to expand TANF related programs. HSD has had to make significant cuts in FY11, which will be maintained for FY12.

According to HSD, “sanctions may be imposed by the court on respondents who fail to complete the curriculum or whom impede the progress for dissolution. It would be practical for such monies to be made available to the Department in order to maintain the program, but there is no guidance provided in the bill. There is no indication what type of sanctions would be imposed and to whom these would be applied.

Further, HSD estimates that implementation of SB 556 requires multiple FTE’s in various statewide locations to teach the curriculum. The costs to hire certified teachers would be significantly higher than providing the curriculum solely on-line. According to the NM

Department of Workforce Solutions mental health counselors and other types of social workers earn an average hourly rate of between \$17.98 and \$22.77.

SIGNIFICANT ISSUES

The TANF program has experienced significant enrollment increases, which has consumed almost all cash balances, while additional federal revenue is ending. The number of TANF cases has grown more than 47 percent since June 2008 to 21,091 in September 2010. Federal stimulus funding and cash balances have largely been depleted. For FY11, the department cut cash benefits by 15 percent (beginning January 1, 2011) and reduced support services at the Children, Youth and Families Department, the Public Education Department and others. Based on the appropriation contained in House Appropriations and Finance Committee (HAFC) substitute for House Bills 2, 3, 4, 5, and 6 (the General Appropriation Act), the department will have to continue these and perhaps make other reductions in FY12.

More specifically, these cuts included:

- \$13.5 million from CYFD Child Care and elimination of certain support payments to TANF recipients.
- A decrease in funding to the New Mexico Works (NMW) service providers, New Mexico State University (NMSU) and Commission on the Status of Women (CSW).
- The suspension of the Transition Bonus Program, resulting in the closure of 584 households.
- A 15 percent budgetary adjustment to decrease TANF recipient's monthly cash assistance benefits with as of January 1, 2011 resulting in a household of three receiving \$68 less per month.

According to HSD:

SB 556 does not specify the administering agency. It is unclear if the curriculum would be taught and maintained through the Courts or through the Department.

The Behavioral Health Services Division (BHSD) of HSD does not provide the direct services, as required under this bill. The bill does not include any provisions to address mental health issues in the curriculum with the exception of depression and suicidal thoughts.

Enacting the Parental Divorce Reduction Act requires certified staff to create and teach appropriate curriculum. However, SB 556 does not define what type or level of certification a teacher must have. A licensed social worker would best fit the criteria outlined in the bill. As discussed above in fiscal implications there are no appropriations provided for staffing.

In 2008, there were 8,100 divorces in New Mexico (per the Statistical Abstract, web site: http://www.census.gov/compendia/statab/cats/births_deaths_marriages_divorces/marriages_and_divorces.html). This number does not include petitions for divorce which may be substantially higher. Due to the undefined number of potential petitioners it is difficult to:

- Estimate the expenses and resources needed to implement the provisions of SB 556 and

- Determine the fee scale and qualifications for each rank.

In order to provide grants for needy families to pay for the curriculum, a family's needy status would need to be determined. This requires staff resources and procedural guidelines to determine need. Additionally, changes to the SHARE system would need to be made in order to reconcile federal funding reports.

PERFORMANCE IMPLICATIONS

The Administrative Office of the Courts notes the courts participate in performance-based budgeting. This bill may impact the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

AOC reports that there will be a minimal cost for statewide update, distribution, and documentation of statutory changes. Any additional operational impact would be proportional to enforcement of this law and commenced prosecutions.

HSD reports that to implement the provisions of SB 556 there must be a formal communication between the court system, administering agency and the department. The court must initiate a referral that the administering agency would need to track in order to reconcile with those petitioners and respondents who have or have not completed the curriculum. Additionally, any waivers to fees as approved by the court would need to be conveyed to the administering agency and to the department to determine eligibility for grant assistance.

TECHNICAL ISSUES

The AOC reports that it is unclear which agency or agencies would be responsible for developing the curricula or certifying the trainers.

The AOC also notes that it is unclear if the 8-month waiting period begins from the time the petitioner and respondent complete the curriculum, as stated on page 5, lines 6-8, or if the waiting period begins when the petitioner gives notice to the respondent of the intention to proceed with the dissolution of marriage, as stated on page 5, lines 11-13. This may need clarifying.

HSD reports that the bill, as drafted, only allows exceptions as they apply against a respondent of an action. It is possible that the petitioner may be an aggressor or meet one of the exceptions. The exceptions should apply if either of the parties meets the criteria

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Parents of minor children will not be required to complete a divorce reduction curriculum or submit to an 8-month waiting period prior to dissolution of marriage.