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FISCAL IMPACT REPORT

SPONSOR Lopez ORIGINAL DATE 2/27/2019
 LAST UPDATED _____ HB _____

SHORT TITLE Review Of Children's Code SB 544

ANALYST Rabin

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|--------|---------------------------|---------------|
| FY20 | FY21 | | |
| \$50.0 | \$50.0 | Nonrecurring | General Fund |

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY19 | FY20 | FY21 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------------------------|------|------|-------------------|---------------------------|---------------|
| Total | See Fiscal Implications | | | | Recurring | General Fund |

(Parenthesis () Indicate Expenditure Decreases)

Relates to SJM18, SB403, SB583, HB540

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Attorney General (NMAG)
 Children, Youth and Families Department (CYFD)
 Office of the Governor (GOV)

SUMMARY

Synopsis of Bill

Senate Bill 544 appropriates \$50 thousand from the general fund to the Office of the Governor to fund a review of the Children's Code led by the Children's Cabinet.

FISCAL IMPLICATIONS

The appropriation of \$50 thousand contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balances remaining at the end of FY20 shall revert to the general fund.

CYFD notes that a comprehensive review of the Abuse and Neglect Act (one of the 31 titles comprising the Children’s Code) required a committee of members and approximately two years to complete. The agency states that any committee established for the purpose of reviewing the entire code will require district attorneys, public defenders, behavioral health specialists, additional CYFD staff from divisions other than protective services, including the regulation and licensing division, shelter care facilities, residential treatment facilities, family support service providers, and others, in addition to the members included in the review of the Abuse and Neglect Act. The costs associated with such a project may exceed \$50 thousand and would likely continue into FY21. These costs may also impact a variety of agencies due to proposed committee members.

SIGNIFICANT ISSUES

CYFD notes a comprehensive review of the Children’s Code would help to ensure the 31 different titles that comprise the code work harmoniously to promote the well-being of children coming within the provisions of the code and to align the code with federal statutory mandates. The agency states the code has never been reviewed in its entirety.

NMAG notes the scope and focus of the review are not defined, and the Children’s Code (Chapter 32A of New Mexico Statutes) is an extensive piece of legislation. In addition, the agency notes the Children’s Court Rules (Rules 10-101 to 10-352 NMRA) may need to be considered along with the Code. CYFD states it is unclear whether one year will be sufficient time to complete this review, but its past experience (see Fiscal Implications, above) suggests more time will be required.

PERFORMANCE IMPLICATIONS

CYFD notes it has performance measures concerning its activities conducted under the Code which may be improved through closer statutory adherence to federal mandates.

ADMINISTRATIVE IMPLICATIONS

See Fiscal Implications, above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill relates to Senate Joint Memorial 18, which requests the chair of the Children’s Cabinet to convene a task force to review and make recommendations for updating the Children’s Code and requests the chair invite representatives from 38 different bodies, agencies, and organizations to join the task force. SJM18 also requests the task force report its findings by November 1, 2019. Per NMAG and CYFD’s analyses (see Significant Issues, above), a comprehensive review may require significantly more time to complete.

This bill also relates to Senate Bill 403, which creates the Juvenile Parole Board, Senate Bill 583, which enacts a new section of the Children’s Code related to the prescription and monitoring of psychotropic medications for children in foster care, and House Bill 540, which makes changes to the Delinquency Act.

OTHER SUBSTANTIVE ISSUES

CYFD notes that, among the federal statutory mandates implemented since the Children’s Code was enacted in 1993, the Preventing Sex Trafficking and Strengthening Families Act of 2014 imposes requirements regarding children who are victims of, or at risk of, sex trafficking, mandates that states implement reasonable and prudent parenting standards for foster family homes, eliminates another planned permanent living arrangement as a plan for a child under sixteen, adds additional case plan and review requirements for children with another planned permanent living arrangement, and imposes requirements for case and transition planning for youth beginning at age 14. CYFD adds that although the state has amended its state plan and CYFD has amended its policies and procedures to address requirements of the Preventing Sex Trafficking and Strengthening Families Act, the Children’s Code has not yet been amended to address that Act.

In addition, CYFD notes that other federal laws passed whose mandates will need to be addressed by any review of the Code include, but are not limited to:

- International Megan’s Law to Prevent Child Exploitation
- Family First Prevention Services Act
- Comprehensive Addiction and Recovery Act (which CYFD states is currently being addressed by House Bill 230)
- Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act

ER/gb