

LFC Requester:	Rachel Gudgel
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**AGENCY BILL ANALYSIS
2015 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date January 29, 2015
Bill No: HB 184

Sponsor: Rep. Zachary J. Cook
Short Uniform Trust Code Changes
Title: _____

Agency Code: Attorney General's Office
Person Writing Rick Word, AAG
Phone: 827-6029 **Email** rword@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

BILL SUMMARY

Synopsis:

House Bill 184 seeks to amend three sections of the Uniform Trust Code. First, the bill would amend Section 46A-1-107(A) to remove a public policy exception to the provision that the law of the jurisdiction specified in the terms of the trust controls. Second, HB 184 would repeal Section 46A-5-503 (Exceptions to Spendthrift Provisions) and replace it with a new Section 503 that eliminates the exception from spendthrift clause protection currently afforded orders or judgments for child support or for the maintenance of a spouse or former spouse. Third, the bill would repeal the current Section 46A-5-504 (Discretionary Trusts; effect of standard) and replace it with a much lengthier and more detailed new section that among things would specify the rights of different types of beneficiaries and the scope of different interests in a trust, narrowly define the bases for challenging the actions of a trustee, and restrict creditors ability to force or reach certain distributions. The proposed new Section 504 would also strike provisions in the current Section 46A-5-504(C) providing for court ordered distribution to satisfy judgments or orders for support of the beneficiary’s child, spouse, or former spouse.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

HB 184 would remove language from the Uniform Trust Code that expressly allows child support orders and judgments to be pursued against the beneficiary’s interest in a trust despite the existence of a spendthrift clause. While no direct conflict was noted, there is a potential conflict with federal laws that provide for the enforcement of child support orders. See, e.g. 45 C.F.R. Subt. B, Ch. III.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

N/A