

LFC Requester:

Hernandez

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov*(Analysis must be uploaded as a PDF)***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Date Prepared: 2/13/25 *Check all that apply:*
Bill Number: HB 203 Original Correction
 Amendment Substitute

Sponsor: Rep Dixon **Agency Name and Code Number:** NM DoIT -361
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Short Title: Use of State Devices for CYFD Business **Phone:** 505-660-3280 **Email:** Raja.Sambandam@cyber.nm.gov

SECTION II: FISCAL IMPACT**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
0	0		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
0	0	0		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		DoIT \$1,850	DoIT \$1,850	DoIT \$1,850	Recurring	General

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(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Bill 203 (HB 203) would create a new section of the Children, Youth and Families Department (CYFD) Act, which would require CYFD employees to only use electronic devices issued by the department to employees for communication related to the performance of duties within the scope of their employment by the department. These devices would be required to only include software and applications that are compliant with federal, state, local, territorial and tribal data retention and protection laws. By January 1, 2026, CYFD would be required to implement a system, approved by DoIT, that will back up on an hourly basis all electronic records generated or received by employees in the course of official business. Those records would have to be retained for twenty-four years. The electronic devices would include “a telephone, tablet, computer, watch or similar device used to generate, store or transfer information.” The electronic records would include “electronic mail, voicemail, text and instant messages, documents and photographs, regardless of the platform being used, including interagency communications.”

FISCAL IMPLICATIONS

To perform an event-based retention timeline, 24 years from termination of employment, would require procuring additional licenses for email, storage, collaboration and compliance software and systems including cloud subscriptions. In addition to the cost of management and operations of this infrastructure, the cost of compliance with this law in form of audit and protecting the stored or archived information also adds another layer of expenses.

It should be assumed that all IT related expenses (hardware, software, mobile devices) will increase over time. Additionally, as records retention must continue for at least 24 years after CYFD employees terminate employment, the number of overall “users” will increase significantly as employees leave and new employees join the organization and the records of all those individuals must be retained.

Based on data available today, it is estimated to cost about 1.5 million dollars (1,500,000) recurring every year.

In addition, The Department of Information Technology will need 2-3 new IT FTE’s to configure, implement, monitor and manage this solution at a total estimated recurring cost of 300,000 - 350,000 per year.

SIGNIFICANT ISSUES

Access to cellular use data from the cellular carrier currently requires issuance of a subpoena to

the carrier. Additionally, carriers have varying data retention schedules; all of which are shorter than this bill requires, so additional third-party retention software must be obtained for archiving the data. Additionally, due to technology changes and rapid adoption of new technologies, the state may not be able to use stored/archived in its current format and may add refactoring costs.

The retention of employee electronic records during the term of the employee's employment and for 24 years thereafter conflicts with existing State Records Center retention policies.

In order to be considered a "public record," an item must have some continuing significance or importance. There must be some purpose or reason for its preservation. Therefore, general correspondence files are not public records per se. Certainly there are many items in such a file which should be treated as public records because their contents bring them within the statutory definition. However, there are many items which should be classified as transitory in value and interest. To treat such items as public records and to require their retention for at least three years (as formerly required under 14-3-11 NMSA 1978) would be burdensome, wasteful and unnecessary. 1960 Op. Att'y Gen. No. 60-72. Therefore, transitory communications such as text and instant messages are not required to be retained under current record retention laws. Transitory messaging through text or instant message are increasingly taking the place of phone calls or in-person communication, as a means of quick communication on transitory matters. Agency employees require a means to communicate quickly about transitory matters, such as scheduling and availability for meetings. These are communications which would otherwise be a verbal conversation, and not conversations that would be recorded for public record. The state does not require all communications between public employees to be recorded. Requiring all of these transitory communications to be retained would have a chilling effect on the use of these communication tools within the department, because it would be the equivalent to recording every phone call. Therefore, the effect of this requirement would be to reduce the amount of communication between employees of the department.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CYFD may have to prepare a digital imaging plan to be approved by the state records center in accordance with their rules.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

Interagency communications may be impacted if compliance with this bill requires CYFD to utilize a communication application that is different from Enterprise applications that the state agencies currently use.

The Department of Information Technology may need to engage 3rd party resources to implement these requirements and test prior to signoff

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL
AMENDMENTS**