

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

FISCAL IMPACT REPORT

SPONSOR Dixon LAST UPDATED _____
ORIGINAL DATE 2/13/2024
BILL
SHORT TITLE Use of State Devices for CYFD Business NUMBER House Bill 203
ANALYST Hernandez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
CYFD		Up to \$5,000.0	Up to \$4,000.0	Up to \$9,000.0	Recurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From

Children, Youth, and Families Department (CYFD)
Office of Family Representation and Advocacy (OFRA)
New Mexico Attorney General (NMAG)
State Personnel Office (SPO)
State Records Center and Archives (SRCA)

Agency Declined to Respond

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of House Bill 203

House Bill 203 (HB203) creates a new section of the Children, Youth, and Families Department (CYFD) Act. The bill requires that CYFD employees only use their department issued devices for communication related to their assigned duties—non-compliance is considered grounds for termination. Additionally, the only software and applications allowed must be compliant with federal, state, local, territorial, and tribal data retention and protection laws.

HB203 also requires the Department to create a system approved by the Department of Information and Technology that backs up all electronic records generated and received by employees on an hourly basis. This data must be saved for at least 24 years prior to the termination of an employee's employment.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

CYFD states that they would need nine additional full-time equivalencies (FTEs) to meet the demand of HB203, which would cost approximately \$1.9 million. However, the Department currently has four fully funded vacant positions in program support, so the total number of staff needed may be fewer. CYFD also indicates that “the estimated fiscal impact for data storage, implementation and maintenance is an additional \$2.1 million per year, with an initial planning and equipment estimate of non-recurring costs estimated at \$1.0 million.”

SIGNIFICANT ISSUES

The New Mexico Attorney General notes that:

The bill mandates a 24-year retention period for electronic records post-employee termination. This duration is more stringent than those listed in the established records retention and disposition schedules outlined in state administrative code (1.21.2 NMAC), which specify varying retention periods based on record type and function. Implementing a uniform 24-year retention period could lead to inconsistencies with these schedules, though the statute would take precedence.”

Additionally, the Attorney General raises potential concerns about an employee’s right to due process: “Public employees generally have due process protections under the New Mexico Constitution and Fourteenth Amendment of the U.S. Constitution, if tenured or classified. Immediate termination without an opportunity for a hearing—although termination is discretionary per the current language—may violate these protections.”

AEH/rl/SR