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## FISCAL IMPACT REPORT

SPONSOR: Papen DATE TYPED: 03/07/01 HB \_\_\_\_\_  
 SHORT TITLE: Limited Out-of -State Disposition of Juveniles SB 744/aSJC  
 ANALYST: Dunbar

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
	\$ 1,000.0			Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

Children, Youth and Families Department (CYFD)  
 Administrative Office of the Courts (AOC)

### SUMMARY

#### Synopsis of SJC Amendment

The Senate Judiciary Committee amendment of SB 744 strikes the first section and replaces it with language providing that as a part of the disposition, a juvenile court allows an adjudicated juvenile to be placed in a rehabilitation program located out-of-state, provided that the juvenile and the program meet standards and rules established by the CYFD in consultation with the Administrative Office of the Courts.

#### ADMINISTRATIVE IMPLICATIONS of SJC Amendment

- CYFD would be required to develop standards in conjunction with the AOC for appropriate juveniles and out-of-state programs that would be eligible for funding.
- CYFD would be responsible for developing agreements and payment processes with out-of-state providers for services, monitoring the out-of-state providers and coordinating supervision with authorities in other states in accordance with the conditions of the Interstate Compact on Juveniles.

**TECHNICAL ISSUES of Senate Judiciary Amendment**

According to CYFD the bill has the following technical problems:

- The amendment to the bill addresses juveniles who are adjudicated, but does not address the disposition of the juvenile. Dispositions for juveniles generally take one of two forms: 1) placed under supervision for a period up to two years (probation with conditions), or 2) a commitment to the CYFD for one or two years, or up to the age of twenty-one. Juveniles who are not in CYFD can make any arrangement to secure treatment.
- Subsection A states “the deposition of the adjudicated juvenile...”, the correct word is “disposition”.
- The language of the bill is full of conflicts between dispositions for probation and commitment to the CYFD. For example: adjudicated juveniles who are considered to be “minimum security risks”. Security risk implies a commitment status, not a probation status.
- The amendment to the bill does not address who would be responsible for coordinating the referrals and transport of juveniles to and from out-of-state facilities.

Synopsis of Original Bill

SB 744 adds a new section (NMSA 9-2A-8.1) pertaining to programs of the Children, Youth and Families Department (ACYFD@). This new section allows CYFD to make rules regarding out-of-state placement of juveniles and provides funding for the placement of a juvenile in an appropriate out-of-state program approved by CYFD and the courts.

Significant Issues

The act allows CYFD to look outside of the state if the juvenile court determines that no special program exists in the state that would be beneficial to the rehabilitation of juvenile offenders. CYFD is to consult with the Administrative Office of the Courts to establish rules for appropriate out-of-state placements. The rules must require that a) the juvenile have a sentence of no less than 2 years, b) the juvenile be determined a minimum security risk, c) the juvenile not be convicted of a sex offense, d) the facility is considered a minimum security facility, and e) the facility not employ psychotropic drugs in caring for juveniles in custody.

**FISCAL IMPLICATIONS**

\$1,000.0 is appropriated from the general fund to CYFD for expenditure in 2002. The amount is recurring and expended or unencumbered balance remaining at the end of fiscal year 02 shall revert to the general fund. Funds are to be spent only after CYFD and the sentencing court agree that the juvenile meets the standards adopted by CYFD for out-of-state placement.

AOC may have indeterminate but small fiscal impact in that portion of the new law which would require CYFD is to consult with the Administrative Office to establish rules for appropriate out-of-state placements.

**ADMINISTRATIVE IMPLICATIONS**

AOC may have indeterminate but small staff impact in that portion of the new law which would require CYFD is to consult with the Administrative Office of the Courts to establish rules for appropriate out-of-state placements.

CYFD and the AOC would be required to develop rules for out-of-state dispositions of adjudicated juveniles, and coordinate approval with the 13 Judicial District Courts.

### **TECHNICAL ISSUES**

The following issues were noted by CYFD as problematic:

- As written, the bill addresses juveniles who are adjudicated, but NOT committed to the custody of the CYFD. CYFD does not limit out-of-state placements for juveniles on probation, and does not pay for placements of juveniles not in its custody, as these juveniles are in their parent's custody.
- The bill would limit the availability of CYFD supported out-of-state placements to adjudicated juveniles who are considered to be minimum "security" risks. Security implies a commitment status, not a probation status.
- The bill would require that juveniles not be "convicted" of a sex offense. Juveniles are not convicted, they are adjudicated.
- Juveniles may be sent to out-of-state facilities that are considered to be "minimum security" facilities. This is a commitment status, not a probation status.

Any out-of-state placement for adjudicated juveniles requires that the CYFD request and receive acceptance of supervision of the juvenile from the receiving state through the Interstate Compact on Juveniles.

### **OTHER SUBSTANTIVE ISSUES**

The bill, according to CYFD, is contrary to the department's philosophy of providing services for these juveniles in New Mexico. CYFD considers it in the best interests of the adjudicated juveniles to place them in programs in New Mexico and to continue to develop needed resources in the state. CYFD also has concerns about the ability to monitor the quality and safety of out-of-state programs.

The bill, maintains CYFD, is also contrary to earlier legislative intent, which mandated, in the residential treatment services category, the return of all children placed in out-of-state facilities. This action, taken in the early 1990's, was one of the major reasons for the development of a wide array of residential treatment facilities in the mid-1990's.

BD/ar/njw