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FISCAL IMPACT REPORT

ORIGINAL DATE 2/7/07

SPONSOR Swisstack LAST UPDATED 2/14/07 HB 517/aHGAC

SHORT TITLE Juvenile Justice Hearing and Processing SB _____

ANALYST Lucero

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$0.1*	\$0.1*	\$0.1*	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

*See Fiscal Implications narrative.

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Defender Department (PDD)

Children, Youth and Families Department (CYFD)

SUMMARY

Synopsis of HGAC amendment

The House Health and Government Affairs Committee (HHGAC) amendment to House Bill 517 deletes many of the original bill's major changes to the Delinquency Act. The bill as amended, only adds eight new principles to the purpose statement of the Act. The eight new principles mirror Annie E. Casey detention system reform principles.

Synopsis of Original Bill

Senate Bill 517 proposes several, mostly minor, changes to the Delinquency Act of the Children's Code.

- Broadens the purpose of the Delinquency Act under Section 32A-2-2 to incorporate eight Annie E. Casey detention and system reform principles including encourage collaboration between government agencies, to develop juvenile justice policies and procedures that are supported by date, to develop objective risk assessment instruments to be used for pre and post adjudication admissions to juvenile detention centers, to

encourage efficient processing of cases, to develop community-based alternatives to detention, to eliminate or reduce disparities based on race or gender, to improve conditions of confinement, to achieve reductions in the number of warrants issued, probation violations, and number of youth awaiting placement.

- Proposes to clarify that a “court order” means a “court issued warrant” under Section 32A-2-11(A), and also replaces “he” with the gender neutral “child”;
- third, Section 32A-2-13(G) contains language that would allow a child on conditions of release to have the child’s case processed as if the child were placed in detention;
- Replaces in Section 32A-2-19 “he” with “child”,
- Allows for pre-adjudication credit under Section 32A-2-19(A)(9), a child placed in a detention facility for a period not to exceed fifteen days for a probation or program violation at any point during the child’s term of probation under Section 32A-2-19(B)(3),
- Replaces “he” with “the parent or legal guardian” under Section 32A-2-19(I).

FISCAL IMPLICATIONS

The financial impact is unclear at the present time, the manpower required, detention alternative programs, and services which will be impacted needs to be determined. Estimates range from one (1) additional FTE per county and costs of 5-10 dollars per day per youth out of detention awaiting disposition. There could also be \$150.00 to \$300.00 per client every month for electronic monitoring.

SIGNIFICANT ISSUES

This bill adds sections D through K to Section 32A-2-2 NMSA 1978. These eight (8) additions are essentially the Annie E. Casey principles of detention and system reform. Adding these sections to the act would amount to philosophical additions to the Children’s Code. The Department has been supportive of detention and system reform and has made recent changes in policy and procedure that support reform. Measuring several of these amendments, although not required, may be difficult. Part (K.) for example, to achieve reductions in the number of warrants issued, the number of probation violations and the number of youth awaiting placement: The Department has limited control over treatment and program options in communities, particularly in the rural areas of the state. Requiring reductions in warrants and probation violations without support by providers in the communities could create public safety concerns.

32A-2-11. CRITERIA FOR DETENTION.

A Judge would have to issue a warrant for youth to be detained on probation violations and specialty court (drug court and similar court programs) violations instead of detention hold (eg. 2 and 4 day holds) being at the discretion of the JPPO or Specialty Court Judge. Two (2) and four (4) day holds are utilized by JPPO’s and Judges as an alternative to revocation of probation. Eliminating this discretionary authority would likely result in an increase of probation violations filed and warrants issued. A direct contradiction to other proposed amendment Part (K.) above requiring reductions in warrants and probation violations. New Mexico has limited resources and program alternatives to date for youth as a detention alternative.

Should a client violate the conditions of probation or parole, the state would be responsible for alternative graduated sanctions/interventions. A cost and personnel resources would be required at a greater level, therefore a financial impact would take place.

32A-2-13. DETENTION HEARING REQUIRED ON DETAINED CHILDREN - PROBABLE CAUSE DETERMINATION—COURT DETERMINATION—DISPOSITION:

Children released under court ordered conditions restricting their movement such as house arrest, electronic monitoring, etc, shall have their case processed under the same time frames as if the child were in detention. This change would have an impact on the Department. Expediting cases benefits the client and allows the JPPO to provide supervision and services at an earlier point in time, but would require JPPO supervision on cases otherwise not supervised. This would have a workload impact for JJS.

32A-2-19. DISPOSTION OF AN ADJUDICATED DELINQUENT OFFENDER:

- A. (9): Gives Judges discretion to allow children credit for time served in a detention facility toward their final disposition. Juvenile dispositions are indeterminate (up to one year, up to two years, up to age twenty-one (21)). For a youth committed for one year (12 months), there is the potential that this change could limit the departments ability to impact a committed youth's behavior because it would reduce the amount of time the department has to work with that youth. If a youth was committed for 12 months and had his/her commitment reduced by 3 months of detention time and 3 months of mandatory parole, the department would only have 6 months to actually program with the youth before he/she is paroled. That amount of time would be inadequate for some youth. The Department already has discretion to release children from probation early when the conditions of the order have been achieved and similar discretion exists as to when a child can be released from a juvenile correctional facility.
- B. (3): This amendment would not have a negative impact on the Department.

PERFORMANCE IMPLICATIONS

It is unclear how this bill will affect performance measures for CYFD.

ADMINISTRATIVE IMPLICATIONS

Administrative costs to track outcomes related to the new items D through K of Section 32A-2-2 NMSA may burden the Department's data resources. The bill may require additional JPPO positions and may limit their authority and discretion.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None identified at this time.

TECHNICAL ISSUES

None, other than those identified under significant issues.

OTHER SUBSTANTIVE ISSUES

None, other than those identified under significant issues.

ALTERNATIVES

None, other than those identified under significant issues.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo.

DL/mt