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FISCAL IMPACT REPORT

ORIGINAL DATE 2/22/07
 LAST UPDATED 3/11/07 HB 1024/aHJC

SPONSOR Berry

SHORT TITLE Law Enforcement Locating Missing Children 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		Minimal		Minimal	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with HB449; Related to SB857

SOURCES OF INFORMATION

LFC Files

Responses Received From

Children, Youth and Families Department (CYFD)
 Administrative Office of the District Attorney (AODA)

SUMMARY

Synopsis of HJC Amendment

House Judiciary Committee amendment to House Bill 1024:

- In the title, strikes “Accommodating children in protective custody; amending protective custody time limitations” and inserts in lieu thereof “Amending the time period for runaways to receive family services”.
- Deletes all sections of the bill and completely replaces it with:
 - Section 32A-3B-2 NMSA 1978 (being Laws of 1993, Chapter 77, Section 74) is amended to read:
 - Defines a “family in need of court-ordered services” as the child or family has refused family services or the department has exhausted appropriate and available family services and court intervention is necessary to provide family services to the child or family and the following circumstances exist:
 - A. “it is a family whose child, subject to compulsory school attendance, is absent from school without an authorized excuse more than ten days during a school semester”;
 - B. “it is a family whose child is absent from the child’s place of residence for a time period of twelve hours or more without consent of the child’s parent, guardian or custodian”;

- C. “it is a family whose child refuses to return home and there is good cause to believe that the child will run away from home if forced to return to the parent, guardian or custodian”; or
- D. “it is a family in which the child’s parent, guardian or custodian refuses to allow the child to return home and a petition alleging neglect of the child is not in the child’s best interests”.
- Introduces a new section:
 - Section 2. “[New Material] Runaway child – Law Enforcement- Permitted Acts. “Whenever a law enforcement agency receives a report from a parent, guardian or custodian that a child over whom the parent, guardian or custodian has custody has, without permission, left the home or residence lawfully prescribed for the child and the parent, guardian or custodian believes the child has run away, a law enforcement agent may help the parent, guardian or custodian locate the child and:
 - A. “return the child to the parent, guardian or custodian unless safety concerns are present”;
 - B. “hold the child for up to six hours if the parent, guardian or custodian cannot be located”; or
 - C. “after the six hours has expired, follow the procedures outlined in Section 32A-3B-3 NMSA 1978”.

Synopsis of Original Bill

The bill amends sections of Chapter 32A of the Children’s Code (NMSA 1978) and adds two new sections.

Section 1: Amends Section 32A-1-4 (1993) to add two newly defined facilities for detaining runaway children:

- “group home” means a small supervised home for children with emotional or behavioral problems in which residents participate in daily tasks under the supervision of a single set of house parents or a rotating staff of trained caregivers
- “juvenile receiving home” means an emergency residential care facility for non-delinquent juveniles

Section 2: Amends Section 32A-3B-4 (1993) by striking the authority of CYFD to determine placement in an appropriate detention location or return to the parent or guardian, if child safety can be assured, when contacted by law enforcement about a child taken into protective custody. The bill would also insert a new provision requiring law enforcement to transport a child taken into protective custody to certain types of facilities to include a juvenile receiving home, police station, sheriff’s office, or group home. A center may be utilized only if the facility has an area for children in protective custody that is segregated from pre- or post adjudicated delinquent children. The child must be held until:

- protective custody has expired and no petition to extend custody is filed;
- the child is placed by CYFD into foster care; or
- the child is returned to the parent or guardian, if child safety can be assured.

Section 3: Amends the Children’s Code to add a new provision relating to locating runaway children. When a law enforcement agency receives a report from a parent/guardian that their child, without permission, has left the home and run away, law enforcement may help the

parent/guardian locate the child and take the child into protective custody for up to 72 hours.

FISCAL IMPLICATIONS

If passed, the bill will have an administrative impact on children, youth and families department that the bill does not address.

SIGNIFICANT ISSUES

While this bill does not affect the DA's operations/procedures directly, the proposed amendments address a concern of law enforcement who deals with taking non-delinquent children taken into custody due usually to an arrest of the parents. Sometimes, a relative cannot be located quickly.

This bill will free up law enforcement officers to return to their assigned duties rather than be forced to "babysit" the children pending a decision by CYFD on what to do with /where to place the children. The child welfare committees on which our office serves just recently discussed this problem. That committee was hoping to have an area designated at the detention centers/shelters for these children.

There is anecdotal evidence that Law Enforcement officers have been forced to sit idle in their units with children taken into protective custody in the mall parking lot awaiting decisions by CYFD as to custody determinations and placement options.

The seventy-two hour protective custody provision in this bill conflicts with the time frames for protective custody in Article 4, The Child Abuse and Neglect Act and Article 3B, The Family in Need of Court-Ordered Services Act. The latter Acts provide for protective custody for two business days.

The bill requires that runaway children in protective custody not be housed with indicted or adjudicated delinquent children. The bill also creates a new residential placement option called "juvenile receiving home". The bill does not designate how this type of facility will be licensed or regulated nor does it designate what agency has the authority to license and/or regulate this type of facility.

The bill creates an additional definition for "group home". Group homes-type placements are currently defined and regulated through 7.8.3 NMAC Residential Health Facilities and 7.20.11 Certification requirements for child and adolescent mental health services.

PERFORMANCE IMPLICATIONS

None identified at this time

ADMINISTRATIVE IMPLICATIONS

If passed, the bill will have an administrative impact on children, youth and families department that the bill does not address.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with HB449; Related to SB857

TECHNICAL ISSUES

The seventy-two hour protective custody provision in this bill conflicts with the time frames for protective custody in Article 4, The Child Abuse and Neglect Act and Article 3B, The Family in Need of Court-Ordered Services Act. The latter Acts provide for protective custody for two business days.

OTHER SUBSTANTIVE ISSUES

Detaining a child for running away can add new trauma to whatever may have motivated the runaway behavior. While running away carries with it certain risks for youth, it does not, in and of itself warrant the creation of a criminal status. It could also force youth intent upon running not to surface for services or interventions because they would face detention.

Some states also have penalties for aiding, providing shelter or otherwise harboring a runaway child.

Detention is a fairly common punishment in runaway cases. The National Council of Family and Juvenile Court Judges reported that between 1985 and 2002, formally processed runaway cases were more likely to involve detention than were other status offense cases. In addition, youth age 15 and younger accounted for more than two-thirds of runaway cases involving detention. Moreover, females accounted for 58% of runaway cases involving detention. Ultimately, petitioned runaway cases were least likely to result in the youth being adjudicated a status offender.

ALTERNATIVES

Fund school districts in the state to educate children on the risks inherent in runaway behavior. Conducting this educational campaign at an early age and continuing to emphasize it as part of a child's education will go much further than trying to address the problem and its associated risks after it has already occurred.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

DL/nt