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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/7/15

SPONSOR Pacheco/Ivey-Soto      LAST UPDATED 2/23/15      HB 208/aHSCAC

SHORT TITLE Removal of Emergency Placement Children      SB \_\_\_\_\_

ANALYST Klundt

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		NFI	NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

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

#### Responses Not Received From

Attorney General's Office (AGO)

### SUMMARY

#### Synopsis of HSCAC amendment

The House Safety and Civil Affairs Committee amendment to House Bill 208 changes the time requirement within which CYFD must provide fingerprints to the Department of Public Safety from fifteen days to "immediately", and inserts "The resident shall be entitled to review the information obtained from the resident's criminal history record check that was performed using the resident's fingerprints." to page 3, line 3.

#### Synopsis of Bill

House Bill 208 amends section 32A-3A-11 NMSA 1978 to give the Children, Youth and Families Department (CYFD) the authority to perform a federal name-based criminal check of each adult residing in the home for an emergency placement situation. This bill also requires CYFD to remove the child from the home immediately if any adult resident fails to provide fingerprints or written permission to perform a federal criminal history record check when requested to do so unless an agreement is made with CYFD that any adult so refusing will leave

the home. In the event of a denial based on background check, this bill entitles the adult resident to review information obtained in the criminal history record check. Finally, this bill requires that the Department of Public Safety (DPS) waive processing fees background checks.

### **FISCAL IMPLICATIONS**

There is no appropriation in HB 208 and the CYFD does not believe this bill will have any additional impact on the operating budget.

However, the Administrative Office of the Courts (AOC) reports additional hearings, and thus a cost to the judiciary, would occur if the guardian ad litem or youth attorney opposes the change of placement. This might occur in limited circumstances such as if the change is determined to be detrimental to the child. For example, where a relative who is caring for the child who has a non-violent criminal charge that is ten years old or older and the child is bonded to the relative.

The impact is estimated to be minimal to the courts.

### **SIGNIFICANT ISSUES**

This bill allows for the adult who refuses to submit to fingerprints to be removed from the home immediately, in order to maintain the placement of the child in said home. CYFD believes HB 208 also allows the agency to maintain placement stability for the affected child.

The AOC did not identify any additional significant issues.

DPS reports the FBI is currently reviewing the statute to determine if NM will be allowed to add this language regarding the removal of a child where an adult resident fails to provide fingerprints or written permission to do a background check and removal of an adult who is unable to or refuses to comply with the background check requirement.

### **PERFORMANCE IMPLICATIONS**

CYFD has performance measures regarding the safety of children in custody.

KK/bb/je