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## FISCAL IMPACT REPORT

SPONSOR Stapleton/Thomson/ ORIGINAL DATE 02/18/17  
Armstrong/Trujillo LAST UPDATED \_\_\_\_\_ HB 306

SHORT TITLE Interventions For Some Nonviolent Offenders SB \_\_\_\_\_

ANALYST Boerner

(Parenthesis ( ) Indicate Revenue Decreases)

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

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$76.5 + unknown program costs	\$76.5 + unknown program costs	\$153.0 + unknown program costs	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Human Services Department (HSD)  
 Children, Youth, and Families Department (CYFD)  
 Corrections Department (NMCD)

### SUMMARY

#### Synopsis of Bill

House Bill 306 (HB 306) would amend the powers and duties of HSD regarding the Behavioral Health Services Division (BHSD). In addition to current responsibilities, HB 306 would require BHSD to create, implement, and evaluate for effectiveness, a framework for targeted, individualized interventions that address the needs of nonviolent adult and juvenile offenders who have behavioral health diagnoses. BHSD would be required to connect these individuals to resources and services that reduce the likelihood of recidivism, detention and incarceration. Such services may include supportive housing, public assistance, medical assistance, behavioral health therapy and employment training.

The effective date of these provisions would be July 1, 2017.

### **FISCAL IMPLICATIONS**

To implement and continually evaluate the effectiveness of the framework required by HB 307, HSD argues it would need to hire a program manager to implement and administer the program. The department estimates the annual cost for the additional staff person at \$76.5 thousand.

Further, although BHSD has programs in place to support justice-involved adults, it is likely that additional funding will be needed to provide sufficient service state-wide to support the targeted population. The amount of funding that will be needed is currently indeterminate, in part because the term “offender” requires clarification to determine the scope of the population to be served (see technical issues).

### **SIGNIFICANT ISSUES**

BHSD currently provides the types of services mandated in HB 306 to many justice-involved adults with serious mental illnesses and substance abuse disorders, but those services are not available statewide. BHSD is not responsible for the juvenile population; CYFD has that responsibility.

BHSD programs for justice-involved adults include:

- San Juan County Alternative Sentencing Program – provides court-ordered treatment and recovery services for substance abuse offenders;
- Forensic Intervention Consortium (Dona Ana and Bernalillo counties) – redirects people with behavioral health disorders from the criminal justice system to community-based treatment and supports;
- Pueblo of Jemez – provides holistic services including intensive outpatient substance abuse services, as well as counseling, for those who are referred by Jemez Pueblo courts;
- Susan’s Legacy (Sandoval county) – provides services, including supportive housing, for women with co-occurring mental and addictive disorders who are involved in jail diversion;
- Thirteenth Judicial District Court – (Sandoval and Valencia counties) – provides clinical case management support to clients who are involved with the legal system. The program serves adults with behavioral health or developmental disabilities who are at risk of becoming or are already involved with criminal justice; and
- Second Judicial District Court (Bernalillo county) - provides services for veterans arrested and charged.

Other activities, such as BHSD’s supportive housing program, do not explicitly support adult offenders; however, the criteria for supportive housing eligibility intentionally allows most individuals with criminal backgrounds to obtain rental assistance, housing counseling, life skills training, and case management.

BHSD works with Medicaid to ensure that high need individuals, including adult offenders, receive appropriate care coordination, health risk assessments, care plans and treatment. Previously, incarcerated individuals covered under Medicaid had their coverage terminated. They had to reapply for eligibility for Medicaid after release which delayed coverage of important medical and behavioral health services. Now, for those with Medicaid coverage who become incarcerated, Medicaid benefits are suspended upon incarceration. This suspension facilitates reactivation of eligibility on release so there is no lapse in coverage. When the incarcerated recipient is released from the correctional facility, the suspension is lifted and the

individual remains enrolled in Medicaid. Incarcerated individuals can also apply for Medicaid coverage while they are incarcerated. The recent expansion of Medicaid eligibility to childless adults makes many offenders eligible.

For services not covered by Medicaid, such as supportive housing and supported employment, BHSD uses federal and state non-Medicaid funds. BHSD continues to investigate federal funding sources for such services.

Studies indicate that individuals with recurrent criminal behavior share similar risk factors for re-offending, regardless of mental health status.<sup>1</sup> SAMHSA has created a useful checklist for implementing evidence-based practices and programs for justice-involved adults with behavioral health disorders. It contains a list of EBPs and practices specifically for justice-involved individuals.<sup>2</sup> The state's advisory body on behavioral health, the Behavioral Health Planning Council, could provide feedback on the framework envisioned by HB 307.

CYFD reminds us New Mexico has struggled to create and maintain a statewide service array due to recruitment issues, provider readiness, turnover of agencies, and lack of adequate funding for reimbursement of evidence based practices. CYFD provided the following background and summary of the programming it currently provides and the collaborations the department is involved in:

- CYFD is a member of the Behavioral Health Collaborative and as such coordinates with BHSD, the Department of Health, Public Education Department, and Department of Vocational Rehabilitation to provide integrated services and supports for youth involved in the Juvenile Justice system. CYFD will continue to collaborate on this distinct target population, offering information on Evidence Based services needed.
- CYFD's Licensing and Certification Authority regulates seven child and adolescent behavioral health services (NMAC 7.20.11 and 7.20.12). The seven services are: Accredited Residential Treatment Services (license and certify); Behavioral Management Services (certify); Comprehensive Community Support Services (certify); Day Treatment Services (certify); Non-Accredited Residential Treatment Services (license and certify); Group Homes (license and certify); Treatment Foster Care (certify). LCA also licenses Children's Crisis Shelters.
- CYFD also contracts for Amenability and Competency Forensic Evaluations for youth in the Juvenile Justice system.
- CYFD has collaborated with Medicaid and BHSD to create an Intensive Outpatient( IOP) model for substance use and co-occurring disorders. The Evidence Based Practice chosen for youth in this effort is Seven Challenges. There are currently nine providers who serve youth and five who serve adults.
- CYFD has trained providers and internal clinical staff on ASAM (American Society of Addiction Medicine) criteria. ASAM is the most widely used comprehensive set of guidelines for placement, continued stay, and transfer/discharge of people with addiction and co-occurring conditions.

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<sup>1</sup> *Reducing Criminal Recidivism for Justice-Involved Persons with Mental Illness: Risk/Needs/Responsivity and Cognitive-Behavioral Interventions*, Merrill Rotter and W. Amory Carr. SAMHSA's GAINS Center for Behavioral Health and Justice Transformation, October 2013.

<sup>2</sup> *A Checklist for Implementing Evidence-Based Practices and Programs for Justice-Involved Adults with Behavioral Health Disorders*, Blandford, Alex M. and Fred C. Osher. SAMHSA's GAINS Center for Behavioral Health and Justice Transformation, August 2012.

- CYFD Juvenile Justice Division (Special Programs) oversees the Juvenile Justice Advisory Council. The JJAC receives state and federal funds for the purposes of the prevention of delinquency, alternatives to detention, and improvement of the Juvenile Justice system. The local boards decide how this money is best used. In FY16 sites funded included:
  - Bernalillo County (Community Custody Program, Youth Services Center, A New Day Reception and Assessment Center (RAC), Circles of Justice, South Valley Reported Center (RAC), Parenting Project, and Victim/Offender Mediation);
  - Chaves County (Wings for Life, Girls Circle, Youth Advocacy, Alternative Education);
  - Cibola County (Student Resource Officer, Substance Abuse Prevention, Mentoring Anti-bullying program);
  - Curry County (Citation Program, Truancy Program, Girls Circle, Boys Council);
  - Grant County (Restorative Justice, Strengthening Families Program);
  - Las Cruces City (Juvenile Citation Program, Reporting Center RAC);
  - Lea County (Youth Reporting Center RAC);
  - Lincoln County (Girls Circle, Boys Council, intensive community monitoring, restorative justice, trauma program);
  - Luna and Hildago Counties (Adolescent Literacy);
  - Los Alamos (Girls Circle, Boys Council, Life Skills, Truancy, Advocacy);
  - McKinley County (Crisis Center, Life Skills, Venture Program, Girls and Boys Circle);
  - Raton City (Restorative Justice, Girls and Boys Circle);
  - Rio Arriba County (PASS program, Intensive Community Monitoring, Girls and Boys Circle, YMCA day monitoring);
  - Sandoval County (Learning labs in Cuba and town of Bernalillo, Reception Center RAC, alternative education setting);
  - San Miguel County (Girls and Boys Circle, Restorative and Violence Prevention, Youth Sports Program);
  - Santa Fe County (Intensive Community Monitoring, Girls and Boys Circle, Day Reporting Center, Strengthening Families, Restorative Justice, Communities in schools);
  - Socorro County (Teen multi-purpose Center, Substance abuse education, youth Diversion Court);
  - Taos City (Intensive community monitoring, Learning Lab, non-violence works program, Girls Circle);
  - Torrance County (Reception and Assessment Center RAC, Scoutreach Program);
  - Valencia County (RAC, Scoutreach Program, Girls and Boys circle).

Finally, CYFD has been involved with Juvenile Detention Alternative Initiative (JDAI) for over a decade. The purpose of this federal initiative is diverting youth experiencing behavioral health and substance use issues to the appropriate services and minimizing detention stays. The Youth Reporting Centers, RAC (officers can transport arrested youth directly to these centers instead of detention) and intensive community supervision programs like Community Custody all are implementations of this effort.

## TECHNICAL ISSUES

HSD points out the term “offender” in SB 306 is not defined. Section 31-5-20 NMSA 1978 defines an adult offender as “an adult placed under or subject to supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies.” Other statutes define various kinds of juvenile offenders. The bill does not indicate whether it refers to offenders who are

incarcerated or offenders who are under the jurisdiction of courts or other authorities in the community.

**OTHER SUBSTANTIVE ISSUES**

Under Section 9-8-7.1 NMSA 1978, BHSD is authorized to “assume responsibility for and implement adult mental health and substance abuse services in the state.” Similar services for juveniles are the responsibility of CYFD.

NMCD argues many inmates and offenders on probation and parole have been convicted of serious violent offenses, as defined in Section 33-2-34 (L)(4) NMSA 1978. These individuals are often in need of behavioral health and related services as much if not more than the NMCD’s nonviolent offenders. Such behavioral health and related services might better prevent these offenders from engaging in any other serious violent offenses or crimes in the future, and serious violent offense convictions usually result in longer and thus more expensive prison sentences and also in higher costs to society (relating to victims’ services, larger amounts of restitution owed, higher amounts of property damage, etc.).

CB/sb