

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)).

## FISCAL IMPACT REPORT

**SPONSOR** Montoya, RE                      **ORIGINAL DATE** 02/11/21  
**LAST UPDATED** 02/17/21    **HB** 183  
**SHORT TITLE** No Fines or Fees For Some Juvenile Crimes    **SB** \_\_\_\_\_  
**ANALYST** Bachechi

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23		
	(\$4.2)	(\$4.2)	Recurring	Various (see pg 2 for detail)

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
 Children, Youth and Families Department (CYFD)  
 Office of the Attorney General (NMAG)  
 Law Office of the Public Defender (LOPD)  
 NM Sentencing Commission (NMSC)

### SUMMARY

#### Synopsis of Bill

House Bill 183 amends certain provisions two New Mexico criminal statutes, the Controlled Substances Act (§30-31-1 through 30-31-41 NMSA 1978) and the Delinquency Act of the NM Children’s Code (§32A-2-1 NMSA 1978), to eliminate fines and fees related to crimes committed by juveniles as follows:

1. Amends Section 30-31-23 NMSA 1978, to eliminates fines for possession of marijuana or synthetic cannabinoids by a minor and modifies the requirement for community service to no more than 48 hours. § 30-31-23(D)
2. Eliminates the nonrefundable application fee of \$10 for public defender representation for any child subject to the provisions of the Delinquency Act. § 31-15-12(C)
3. Eliminates court cost expenses, fines or fees for a child, the family of a child or a person who is legally responsible for the care and support of the child, subject to the provisions of the

Delinquency Act (these expenses include service of summonses, notices, subpoenas, witness travel expenses or similar type of expenses incurred in Children’s Code proceedings). § 32A-1-19 and 32A-2-19

**FISCAL IMPLICATIONS**

This bill would eliminate the assessment of fines and fees against juvenile delinquent offenders in the Children’s Court. In the previous five fiscal years (FY16 – FY20) a total of \$28.7 thousand in combined fines and fees was assessed and collected in juvenile delinquent proceedings. The following is a total amount of fines and fees collected by the Children’s Court in each fiscal year:

- FY16 - \$4,241.65
- FY17 - \$4,060.65
- FY18 - \$13,095.31
- FY19 - \$4,282.85
- FY20 - \$3,009.10

The table below shows the amount of fees and fines collected on criminal juvenile cases, per fund in each fiscal year:

Fee Type	FY16	FY17	FY18	FY19	FY20	Total
Criminal Brain Injury Services Fee	\$175.00	\$60.00	\$30.00	\$25.00	\$45.00	\$335.00
Criminal Certification and Seal Fee	\$18.00	\$7.50	\$16.50	\$24.00	\$22.50	\$88.50
Criminal Corrections Fee	\$700.00	\$240.00	\$120.00	\$100.00	\$160.00	\$1,320.00
Criminal Court Automation Fee	\$260.00	\$40.00	\$0.00	\$0.00	\$10.00	\$310.00
Criminal Court Costs Fee	\$0.00	\$0.00	\$0.00	\$0.00	\$20.00	\$20.00
Criminal Court Facilities Fee	\$260.00	\$40.00	\$0.00	\$0.00	\$0.00	\$300.00
Criminal Crime Victims Reparation Fee	\$150.00	\$750.00	\$550.00	\$2,325.00	\$750.00	\$4,525.00
Criminal DNA Identification Fee	\$0.00	\$200.00	\$300.00	\$100.00	\$300.00	\$900.00
Criminal Domestic Violence Treatment Fee	\$0.00	\$45.00	\$15.00	\$5.00	\$50.00	\$115.00
Criminal DWI Prevention Fee	\$1,050.00	\$675.00	\$525.00	\$450.00	\$675.00	\$3,375.00
Criminal DWI/BWI Lab Fee	\$1,190.00	\$850.00	\$595.00	\$510.00	\$680.00	\$3,825.00
Criminal Fax Copy Fee - District	\$27.00	\$0.00	\$0.00	\$0.00	\$0.00	\$27.00
Criminal Fine	\$25.00	\$1,015.00	\$10,902.61	\$500.00	\$185.00	\$12,627.61
Criminal Judicial Education Fee	\$78.00	\$12.00	\$0.00	\$0.00	\$3.00	\$93.00
Criminal Jury and Witness Fee	\$130.00	\$20.00	\$0.00	\$0.00	\$5.00	\$155.00
Criminal Jury Fee Reimbursement	\$0.00	\$0.00	\$0.00	\$92.00	\$0.00	\$92.00
Criminal Photocopy Fee	\$73.15	\$66.15	\$11.20	\$136.85	\$26.60	\$313.95
Criminal Postage	\$0.50	\$0.00	\$0.00	\$0.00	\$0.00	\$0.50
Criminal Tape/CD Duplication Fee	\$0.00	\$4.00	\$12.00	\$0.00	\$0.00	\$16.00
Criminal Traffic Safety Education Fee	\$105.00	\$36.00	\$18.00	\$15.00	\$27.00	\$201.00
Non-Criminal Penalty Assessment	\$0.00	\$0.00	\$0.00	\$0.00	\$50.00	\$50.00
<b>Total</b>	<b>\$4,241.65</b>	<b>\$4,060.65</b>	<b>\$13,095.31</b>	<b>\$4,282.85</b>	<b>\$3,009.10</b>	<b>\$28,689.56</b>

Criminal fines go to the school fund, and each fee is distributed to the allotted fund, per statute. A relatively small amount is currently assessed and collected in delinquency cases, however, elimination of fine and fee assessment in juvenile criminal cases would decrease revenue in each of the fee funds listed above. The funds which would see the largest decrease, based on amounts collected in previous years, would be the crime victims reparation fund (§31-12-13 NMSA 1978), the DWI prevention fund (§31-12-7(B) NMSA 1978), and the crime laboratory fund (§31-12-9 NMSA 1978).

The bill would remove the \$10 application fee for LOPD representation for a small subset of clients: minors charged with delinquency offenses. As this fee can already be waived in some instances, it is difficult to predict the precise fiscal impact, but it is likely to be small enough that it could be absorbed within the operating budget.

## **SIGNIFICANT ISSUES**

House Bill 183 was developed by the New Mexico Sentencing Commission’s Juvenile Committee and was endorsed unanimously by the full sentencing commission. The commission developed the bill to eliminate fines that are potentially harmful to youth and costly to administer. Use of fines and fees in the juvenile justice system increases the likelihood that a child will stay enmeshed in the juvenile and criminal justice systems.

Advocates working on the issues surrounding fines and fees have found that fines and fees in juvenile justice systems are detrimental for the youth and families involved. The Juvenile Law Center reported:

We conclude that the imposition of costs, fees, and fines is widespread and poses significant problems for youth and their families. Across the country, the inability to make these payments subjects youth and families to possible incarceration, suspension of driver’s licenses, an inability to expunge or seal records, and economic and social stress, among other consequences.

Policymakers and professionals aiming to ensure that the juvenile justice system is structured to support positive outcomes for youth and families should take a hard look at the consequences of monetary sanctions on youth. They should safeguard the due process rights of youth and families and ensure that the juvenile justice system, designed primarily to support and rehabilitate, does not instead impose undue harm on youth and their families.<sup>1</sup>

The proposed change to eliminate fines and fees for is in alignment with the rehabilitative approach used by NM Juvenile Justice Services. Interventions and supports are designed to the individual needs so granting discretion by Probation will allow for this targeted approach to continue.

## **ADMINISTRATIVE IMPLICATIONS**

There may be an administrative impact on the courts, due to the need to change administrative processes for how the Children’s Court assesses fees and fines in delinquency cases.

## **OTHER SUBSTANTIVE ISSUES**

CYFD noted, the proposed change to eliminate the mandatory forty-eight hours of community service is in alignment with the rehabilitative approach used by NM Juvenile Justice Services. Interventions and supports are designed to the individual needs so granting discretion by probation will allow for this targeted approach to continue.

CLB/al/rl

---

<sup>1</sup> Feierman, “Debtor’s Prison for Kids? The High Cost of Fines and Fees in the Juvenile Justice System” (Juvenile Law Center, 2016) (available at: <http://debtorsprison.jlc.org/documents/jlc-debtors-prison.pdf>).