

HOUSE BILL 5

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

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AN ACT

RELATING TO CHILDREN; REQUIRING VALIDATION OF AND REPORTING ON A DETENTION RISK ASSESSMENT INSTRUMENT; PROVIDING FOR THE ISSUANCE OF A WARRANT AND A TOLL OF TIME OF SUPERVISED RELEASE FOR A DELINQUENT CHILD WHO HAS ABSCONDED FROM THE SUPERVISED RELEASE TERM; RENAMING AND AMENDING THE JUVENILE COMMUNITY CORRECTIONS ACT; PROVIDING FOR GRANTS FOR PROGRAMS THAT PROVIDE SERVICES FOR ADJUDICATED DELINQUENTS, CHILDREN OR YOUTH; ESTABLISHING A LOCAL PANEL TO DETERMINE THE NEXT STEPS OF A DELINQUENT CHILD SENTENCED TO A JUVENILE FACILITY; PROVIDING FOR CONSIDERATION OF AVAILABLE SERVICES AND PROGRAMS FOR THE WELL-BEING OF THE DELINQUENT CHILD.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 32A-2-11 NMSA 1978 (being Laws 1993, Chapter 77, Section 40, as amended) is amended to read:

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1 "32A-2-11. CRITERIA FOR DETENTION OF CHILDREN.--

2 A. Unless otherwise ordered by [the] a court
3 pursuant to [the provisions of] the Delinquency Act, a child
4 taken into custody for an alleged delinquent act [shall not be
5 placed in detention unless] may be detained only in accordance
6 with Section 32A-2-10 NMSA 1978 and only if a detention risk
7 assessment [instrument] is completed and a determination is
8 made that the child:

9 (1) poses a substantial risk of harm to
10 [himself] the child's self;

11 (2) poses a substantial risk of harm to
12 others; or

13 (3) has demonstrated that [he] the child may
14 leave the jurisdiction of the court.

15 B. The [criteria for detention in] provisions of
16 Subsection A of this section [shall govern the decisions of]
17 apply to all persons responsible for determining whether
18 [detention is appropriate prior] to detain a child before a
19 detention hearing [based upon review of the detention risk
20 assessment instrument] is held.

21 C. The department shall develop, validate and
22 implement an instrument to conduct a detention risk assessment
23 [instrument]. The department shall collect and analyze data
24 regarding the application [of the detention risk assessment
25 instrument]. On January 1, 2004, the department shall provide

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1 the legislature with a written report with respect to its
2 collection and analysis of data regarding the application of
3 the detention risk assessment instrument] and effectiveness of
4 the instrument every three years and update the instrument
5 based on the data.

6 D. On or before September 1 of each year, the
7 department shall provide to the legislature a written report on
8 the application and effectiveness of the instrument used to
9 conduct a detention risk assessment. If applicable, the report
10 shall explain the validation of the instrument and updates made
11 to the instrument."

12 SECTION 2. Section 32A-2-25 NMSA 1978 (being Laws 1993,
13 Chapter 77, Section 54, as amended) is amended to read:

14 "32A-2-25. [PAROLE] REVOCATION OF SUPERVISED RELEASE--
15 PROCEDURES--

16 A. [A child on parole from an agency that has legal
17 custody who violates a term of parole may be proceeded against
18 in a parole revocation proceeding conducted by the department
19 or the supervising agency or by a hearing officer contracted by
20 the department who is neutral to the child and the agency in
21 accordance with procedures established by the department in
22 cooperation with the juvenile parole board] If an adjudicated
23 delinquent child violates a condition of the child's supervised
24 release, the department may propose revocation of the
25 supervised release. If the department proposes revocation, the

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1 department shall conduct a revocation hearing that is presided
2 over by the department or a neutral hearing officer contracted
3 by the department. A child may waive the right to a revocation
4 hearing after consultation with the child's attorney, parent,
5 guardian or custodian.

6 B. A juvenile probation [and parole] officer may
7 detain a child on [~~parole status who is alleged to have~~]
8 supervised release if the officer has probable cause to believe
9 that the child violated a [~~term or~~] condition of [parole] the
10 supervised release. A child detained pursuant to this
11 subsection shall remain in detention until the completion [and
12 review of a preliminary parole] of the revocation hearing. [A
13 child may waive the right to a preliminary parole revocation
14 hearing after consultation with the child's attorney, parent,
15 guardian or custodian.

16 B. If a retake warrant is issued by the department
17 upon the completion of the preliminary parole revocation
18 hearing, the juvenile institution to which the warrant is
19 issued shall promptly transport the child to that institution
20 at the expense of the department.]

21 C. If a child's supervised release is revoked, the
22 department shall issue a notice of revocation to a juvenile
23 corrections facility. Upon receiving the notice, the facility
24 shall immediately take custody of the child for the remainder
25 of the commitment.

1 D. If a child absconds from [parole supervision]
2 supervised release and is apprehended in another state after
3 the issuance of a [~~retake~~] warrant by a court or a notice of
4 revocation by the department, the [~~juvenile justice division of~~
5 ~~the~~] department shall [cause] provide for the return of the
6 child [~~to this state~~] at the expense of the department.

7 E. The issuance of a warrant upon an allegation
8 that a child has absconded from supervised release shall toll
9 the supervised release period. After a hearing upon a child's
10 return or quashing of the warrant, if the court finds that the
11 child knowingly and willfully absconded from supervised
12 release, the time from the date of the violation to the date of
13 the child's arrest or quashing of the warrant shall not be
14 counted as time served on supervised release and the tolled
15 time shall be added to the supervised release term."

16 SECTION 3. Section 33-9A-1 NMSA 1978 (being Laws 1988,
17 Chapter 101, Section 39, as amended) is amended to read:

18 "33-9A-1. SHORT TITLE.--Chapter 33, Article 9A NMSA 1978
19 may be cited as the "Juvenile Community [~~Corrections~~]
20 Connections Act"."

21 SECTION 4. Section 33-9A-2 NMSA 1978 (being Laws 1988,
22 Chapter 101, Section 40, as amended) is amended to read:

23 "33-9A-2. DEFINITIONS.--As used in the Juvenile Community
24 [~~Corrections~~] Connections Act:

25 A. "child" means a person who is younger than
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1 eighteen years of age;

2 [A-] B. "delinquent child" means a child who has
3 been adjudicated for a delinquent act pursuant to the
4 Children's Code;

5 [B-] C. "department" means the children, youth and
6 families department;

7 [C-] D. "fund" means the juvenile community
8 [~~corrections~~] connections grant fund;

9 [D-] E. "secretary" means the secretary of
10 children, youth and families; [and

11 E-] F. "volunteer services" means services provided
12 by individuals or organizations without compensation,
13 reimbursement or award of any kind;

14 G. "youth" means a person who is eighteen years of
15 age or older but younger than twenty-six years of age; and

16 H. "youthful offender" means a youthful offender as
17 defined by Subsection J of Section 32A-2-3 NMSA 1978 who is
18 subject to juvenile sanctions and does not include a delinquent
19 child subject to adult sanctions."

20 SECTION 5. Section 33-9A-3 NMSA 1978 (being Laws 1988,
21 Chapter 101, Section 41, as amended) is amended to read:

22 "33-9A-3. JUVENILE COMMUNITY [~~CORRECTIONS~~] CONNECTIONS
23 GRANT FUND CREATED--PURPOSE--ADMINISTRATION--REPORT--

24 A. There is created in the state treasury the
25 "juvenile community [~~corrections~~] connections grant fund" to be
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1 administered by the department. All balances in the fund are
2 appropriated to the department to carry out the purposes of the
3 fund, and no money shall be transferred to another fund or be
4 encumbered or disbursed in any manner except as provided in the
5 Juvenile Community [~~Corrections~~] Connections Act.

6 Disbursements from the fund shall be made only upon warrant
7 drawn by the secretary of finance and administration pursuant
8 to vouchers signed by the secretary of children, youth and
9 families.

10 B. Money in the fund shall be used by the
11 department to make grants to counties, municipalities or
12 private organizations, individually or jointly, to provide
13 community [~~corrections~~] programs and services for the diversion
14 of [~~adjudicated delinquents~~] delinquent children or youthful
15 offenders subject to juvenile sanctions or children or youth
16 referred by the department to community-based settings. No
17 grant shall be made to a private organization that is not a
18 nonprofit organization without the approval of the secretary.
19 The department [~~may~~] shall also use money in the fund to
20 contract directly for or operate [~~juvenile community~~
21 ~~corrections~~] programs that provide services for delinquent
22 children or youthful offenders subject to juvenile sanctions or
23 children or youth referred for services by the department.

24 C. No more than [~~ten~~] twelve percent of the money
25 in the fund shall be used by the department for administration

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1 and program monitoring by the department. No more than [ten]
2 twelve percent of any grant from the fund shall be used for
3 administrative costs incurred by the grantee.

4 D. After notice and public hearing as required by
5 law, the secretary shall adopt [regulations] rules that provide
6 standards for qualifications for grants, priorities for
7 awarding of grants and other standards regarding [juvenile
8 community corrections] programs [deemed necessary] for eligible
9 delinquent children or youthful offenders; provided that, at
10 minimum, eligible programs or services shall be evidence- or
11 research-based. The department shall review and approve or
12 disapprove all applications submitted pursuant to the Juvenile
13 Community [Corrections] Connections Act for a grant of funds
14 from the fund.

15 E. The department shall submit an annual report to
16 the governor and legislature not later than December 15
17 providing information on grant awards, program effectiveness
18 and monitoring efforts and making recommendations as necessary
19 to carry out the purpose of the fund.

20 F. The department may accept donations, payments,
21 contributions, gifts or grants from whatever source for the
22 benefit of the fund."

23 SECTION 6. Section 33-9A-4 NMSA 1978 (being Laws 1988,
24 Chapter 101, Section 42, as amended) is amended to read:

25 "33-9A-4. APPLICATIONS--CRITERIA.--

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1 A. Counties, municipalities or private
2 organizations, individually or jointly, may apply for grants
3 from the fund, including grants for counties or municipalities
4 to purchase contractual services from private organizations;
5 provided that:

6 (1) the application is for funding a program
7 ~~[with priority use being for delinquents selected pursuant to~~
8 ~~the provisions of Section 33-9A-5 NMSA 1978] that provides~~
9 ~~prevention, intervention or diversion services to delinquent~~
10 ~~children or youthful offenders subject to juvenile sanctions or~~
11 ~~children or youth referred for services by the department;~~

12 (2) the applicant certifies that ~~[it]~~ the
13 applicant is willing and able to operate the program according
14 to standards provided by the department, which may include the
15 negotiation of a ~~[contract]~~ program agreement or service
16 agreement between the ~~[delinquent]~~ child or youth and program
17 staff with provisions such as deductions from employment income
18 for applicable victim restitution, family support, room and
19 board, savings and weekly allowance. In addition to monetary
20 restitution, to the extent practical, or if monetary
21 restitution is not applicable, the ~~[contract]~~ program agreement
22 or service agreement may include provision for community
23 service restitution for a specific number of hours;

24 (3) the applicant demonstrates the support of
25 key components of ~~[the criminal justice system]~~ prevention,

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1 intervention and diversion;

2 (4) the applicant, if a private organization,
3 demonstrates the support of the county and municipality where
4 the program will provide services;

5 (5) the applicant certifies that it will
6 utilize volunteer services as an integral portion of the
7 program to the maximum extent feasible; and

8 (6) no class A county alone or in conjunction
9 with any municipality within a class A county shall receive
10 more than forty-nine percent of any money appropriated to the
11 fund.

12 B. The award of grants to applicants shall be
13 prioritized as follows:

14 (1) programs focused on:

15 (a) decreasing violence, gun violence,
16 alcohol and substance abuse, gang activity, criminal mentality
17 and trauma; and

18 (b) improving mental health and anger
19 management;

20 (2) programs focused on education, literacy,
21 financial literacy, job training, apprenticeships, food justice
22 and housing; and

23 (3) programs focused on arts, performing arts,
24 sports, music, debate and leadership.

25 [B.] C. Notwithstanding the provisions of

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1 Subsection A of this section, the department may shall
2 utilize the fund to place individuals eligible, or within
3 twelve months of eligibility, for parole supervised release
4 in community-based settings. The department shall evaluate the
5 totality of the circumstances unique to the eligible individual
6 to determine what available services are most likely to support
7 the individual while on supervised release and may, in its
8 discretion, require participation [by a delinquent] in a
9 program as a condition of supervised release.

10 [C.] D. The department may utilize not more than
11 twenty-five percent of the fund [to contract directly for
12 community corrections programs] for a program agreement or
13 service agreement that provides services for delinquent
14 children or youthful offenders subject to juvenile sanctions or
15 children or youth referred for services by the department or to
16 establish programs operated by the department; provided,
17 however, that the department may utilize up to an additional
18 ten percent of the fund to operate [juvenile community
19 corrections] programs that provide services for delinquent
20 children or youthful offenders subject to juvenile sanctions or
21 children or youth referred by the department if, after a
22 reasonable effort to solicit proposals, there are no
23 satisfactory proposals from a community where it is determined
24 that a program is necessary or if it becomes necessary to
25 cancel a program as provided in the contract.

1 [D.] E. The department shall establish additional
2 guidelines for allocation of funds under the Juvenile Community
3 [Corrections] Connections Act. An applicant that receives a
4 grant shall retain the authority to accept or reject the
5 placement of [any delinquent] a child or youth in a program
6 operated by the department."

7 SECTION 7. Section 33-9A-5 NMSA 1978 (being Laws 1988,
8 Chapter 101, Section 43, as amended) is amended to read:

9 "33-9A-5. SELECTION PANELS.--

10 A. [The department shall establish a state panel] A
11 county, municipality or private organization, individually or
12 jointly, may establish a local panel whose duties shall be to
13 immediately screen and identify delinquents sentenced to a
14 juvenile [correctional] facility of the department and
15 transferred to the legal custody of the department. [except
16 individuals who are sentenced or transferred from a judicial
17 district that has established a local panel to exercise these
18 duties pursuant to the provisions of this section and who meet
19 the following criteria:

20 (1) the offense involved is one for which
21 community service or reasonable restitution may be made using a
22 payment schedule compatible with the total amount of
23 restitution to be paid and the time the offender is to
24 participate in a program; and

25 (2) the child is willing to enter into a

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1 contract that establishes objectives that shall be achieved
2 before release from the program] The composition of a local
3 panel shall include representatives from the judiciary, the
4 public defender department or the public defender department's
5 designee, the district attorney or the district attorney's
6 designee, the local schools, the department, the county sheriff
7 or the municipal police department, individuals representing
8 local programs and private citizens.

9 B. The department may establish criteria [~~in~~
10 ~~addition to those established in Subsection A of this section~~] for the screening of delinquents who would benefit from
11 participation in a program and who would not pose a threat to
12 the community.

13 C. If the [~~state~~] local panel determines that a
14 child is suitable for placement in a program, a recommendation
15 to that effect and for modification of disposition shall be
16 presented as soon as possible to the sentencing judge or the
17 department, which may, notwithstanding any provision of law,
18 accept, modify or reject the recommendation. The determination
19 shall be presented to the county, municipality or private
20 nonprofit organization, as applicable, for approval or
21 rejection.

22 [D. A county, municipality or private nonprofit
23 organization, individually or jointly, may establish a local
24 panel to exercise the duties and responsibilities of the state

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1 panel pursuant to the provisions of Subsection A of this
2 section and, using the same criteria as the state panel, the
3 local panel may screen and identify delinquents. The
4 composition of a local panel shall include, to the maximum
5 extent possible, representatives of the judiciary, the
6 administrative office of the district attorneys, the public
7 defender department, the children, youth and families
8 department, the county sheriff or the municipal police
9 department, individuals representing local programs and private
10 citizens.]"

11 SECTION 8. Section 33-9A-6 NMSA 1978 (being Laws 1988,
12 Chapter 101, Section 44) is amended to read:

13 "33-9A-6. SENTENCING--SERVICES AND PROGRAMS.--

14 A. In every case where the commitment to the
15 authority of a child adjudicated delinquent is contemplated by
16 a judge, a predisposition report shall be prepared containing
17 the recommendation of the juvenile probation officer regarding
18 a community corrections placement or a diagnostic evaluation
19 shall be completed by the authority containing the
20 recommendation of the authority regarding that placement and
21 the judge shall consider that report or evaluation prior to
22 making that commitment. A juvenile probation officer shall
23 consult with the authority prior to making a recommendation
24 pursuant to this subsection.

25 B. At a sentencing hearing, if a judge of a court

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1 of competent jurisdiction determines placement in community
2 corrections is appropriate, [he] the judge shall defer or
3 suspend the sentence and, as a condition of probation, require
4 [an individual] the child to serve a period of time in a
5 community corrections program. The judge shall consider
6 whether the available services and program participation will
7 support the child during probation. After considering the
8 totality of the circumstances, the judge may order services or
9 program participation as a condition of probation if such an
10 order is likely to reduce recidivism, support the mental health
11 of the child or encourage education, job training and financial
12 literacy."

13 SECTION 9. Section 41-4-3 NMSA 1978 (being Laws 1976,
14 Chapter 58, Section 3, as amended) is amended to read:

15 "41-4-3. DEFINITIONS.--As used in the Tort Claims Act:

16 A. "board" means the risk management advisory
17 board;

18 B. "governmental entity" means the state or any
19 local public body as defined in Subsections C and H of this
20 section;

21 C. "local public body" means all political
22 subdivisions of the state and their agencies, instrumentalities
23 and institutions and all water and natural gas associations
24 organized pursuant to Chapter 3, Article 28 NMSA 1978;

25 D. "law enforcement officer" means a full-time

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1 salaried public employee of a governmental entity, or a
2 certified part-time salaried police officer employed by a
3 governmental entity, whose principal duties under law are to
4 hold in custody any person accused of a criminal offense, to
5 maintain public order or to make arrests for crimes, or members
6 of the national guard when called to active duty by the
7 governor;

8 E. "maintenance" does not include:

9 (1) conduct involved in the issuance of a
10 permit, driver's license or other official authorization to use
11 the roads or highways of the state in a particular manner; or
12 (2) an activity or event relating to a public
13 building or public housing project that was not foreseeable;

14 F. "public employee" means an officer, employee or
15 servant of a governmental entity, excluding independent
16 contractors except for individuals defined in Paragraphs (7),
17 (8), (10), (14) and (17) of this subsection, or of a
18 corporation organized pursuant to the Educational Assistance
19 Act, the Small Business Investment Act or the Mortgage Finance
20 Authority Act or a licensed health care provider, who has no
21 medical liability insurance, providing voluntary services as
22 defined in Paragraph (16) of this subsection and including:

23 (1) elected or appointed officials;
24 (2) law enforcement officers;
25 (3) persons acting on behalf or in service of

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1 a governmental entity in any official capacity, whether with or
2 without compensation;

3 (4) licensed foster parents providing care for
4 children in the custody of the ~~human services department,~~
5 ~~corrections department or department of health]~~ state, but not
6 including foster parents certified by a licensed child
7 placement agency;

8 (5) members of state or local selection panels
9 established pursuant to the Adult Community Corrections Act;

10 (6) members of state or local selection panels
11 established pursuant to the Juvenile Community ~~Corrections~~
12 Connections Act;

13 (7) licensed medical, psychological or dental
14 arts practitioners providing services to the corrections
15 department pursuant to contract;

16 (8) members of the board of directors of the
17 New Mexico medical insurance pool;

18 (9) individuals who are members of medical
19 review boards, committees or panels established by the
20 educational retirement board or the retirement board of the
21 public employees retirement association;

22 (10) licensed medical, psychological or dental
23 arts practitioners providing services to the children, youth
24 and families department pursuant to contract;

25 (11) members of the board of directors of the

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New Mexico educational assistance foundation;

(12) members of the board of directors of the New Mexico student loan guarantee corporation;

(13) members of the New Mexico mortgage finance authority;

(14) volunteers, employees and board members of court-appointed special advocate programs;

(15) members of the board of directors of the small business investment corporation;

(16) health care providers licensed in New Mexico who render voluntary health care services without compensation in accordance with rules promulgated by the secretary of health. The rules shall include requirements for the types of locations at which the services are rendered, the allowed scope of practice and measures to ensure quality of care;

(17) an individual while participating in the state's adaptive driving program and only while using a special-use state vehicle for evaluation and training purposes in that program;

(18) the staff and members of the board of directors of the New Mexico health insurance exchange established pursuant to the New Mexico Health Insurance Exchange Act; and

(19) members of the insurance nominating

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1 committee;

2 G. "scope of duty" means performing any duties that
3 a public employee is requested, required or authorized to
4 perform by the governmental entity, regardless of the time and
5 place of performance; and

6 H. "state" or "state agency" means the state of New
7 Mexico or any of its branches, agencies, departments, boards,
8 instrumentalities or institutions."

9 SECTION 10. Section 41-13-2 NMSA 1978 (being Laws 1999,
10 Chapter 268, Section 3) is amended to read:

11 "41-13-2. DEFINITIONS.--As used in the Governmental
12 Immunity Act:

13 A. "employment" includes services provided by an
14 immune contractor;

15 B. "governmental entity" means the state or a local
16 public body;

17 C. "immune contractor" means a person that:
18 (1) is an independent contractor; [and]
19 (2) contracts with a governmental entity to
20 provide:

21 (a) care for children in the custody of
22 the [human services department, corrections department or
23 department of health] state, as a licensed foster parent,
24 excluding foster parents certified by a licensed child
25 placement agency; or

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(b) services to the children, youth and families department or the corrections department as a licensed medical, psychological or dental arts practitioner;

(3) is a member of:

(a) a state or local selection panel established pursuant to the Juvenile Community [Corrections] Connections Act;

(b) a state or local selection panel established pursuant to the Adult Community Corrections Act;

(c) the board of directors of the New Mexico [comprehensive health] medical insurance pool;

(d) a medical review board, a committee or panel established by the educational retirement board or the retirement board of the public employees retirement association;

(e) the board of directors of the New Mexico educational assistance foundation; or

(f) the board of directors of the New Mexico student loan guarantee corporation; or

(4) is a volunteer, employee or board member of a court-created special advocate program;

D. "local public body" means a political subdivision of the state and its agencies, instrumentalities and institutions and a water and natural gas association organized pursuant to Chapter 3, Article 28 NMSA 1978;

1 E. "public employee" means a natural person that is
2 an officer or employee of a governmental entity; and

3 F. "state" means the state of New Mexico or any of
4 its branches, agencies, departments, boards, instrumentalities
5 or institutions."

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