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FISCAL IMPACT REPORT

SPONSOR: SFL DATE TYPED: 03/14/01 HB _____
 SHORT TITLE: Limited Out-of -State Disposition of Juveniles SB 744/SFLS
 ANALYST: Dunbar

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		See Narrative			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

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

SUMMARY

Synopsis of Substitute Bill

The substitute bill adds a new section (NMSA 9-2A-8.1) pertaining to programs of the Children, Youth and Families Department. This new section allows CYFD to make rules regarding out-of-state placement of juveniles.

The bill states that as a part of the disposition, a juvenile court may allow an adjudicated juvenile to be placed in a rehabilitation program located out-of-state, provided that the juvenile and the program meet standards and rules established by the CYFD in consultation with the Administrative Office of the Courts.

Significant Issues

CYFD is to consult with the Administrative Office of the Courts to establish rules for appropriate out-of-state placements. The rules must require that a) the juvenile have a sentence of no less than 2 years, b) the juvenile be determined a minimum security risk, c) the juvenile not be convicted of a sex offense, d) the facility is considered a minimum security facility, and e) the facility not employ psychotropic drugs in caring for juveniles in custody.

FISCAL IMPLICATIONS

The bill does not contain an appropriation and the placement of a juvenile offender in an out of state rehabilitation program may require additional funding.

ADMINISTRATIVE IMPLICATIONS

CYFD would be required to develop standards in conjunction with the AOC for appropriate juveniles and out-of-state programs that would be eligible for funding.

CYFD would be responsible for developing agreements and payment processes with out-of-state providers for services, monitoring the out-of-state providers and coordinating supervision with authorities in other states in accordance with the conditions of the Interstate Compact on Juveniles.

AOC may have indeterminate but small staff impact in that portion of the new law which would require CYFD is to consult with the Administrative Office of the Courts to establish rules for appropriate out-of-state placements.

CYFD and the AOC would be required to develop rules for out-of-state dispositions of adjudicated juveniles, and coordinate approval with the 13 Judicial District Courts.

TECHNICAL ISSUES

According to CYFD the bill has the following technical problems:

- c The bill addresses juveniles who are adjudicated, but does not address the disposition of the juvenile. Dispositions for juveniles generally take one of two forms: 1) placed under supervision for a period up to two years (probation with conditions), or 2) a commitment to the CYFD for one or two years, or up to the age of twenty-one. Juveniles who are not in CYFD can make any arrangement to secure treatment.
- c The language of the bill is full of conflicts between dispositions for probation and commitment to the CYFD. For example: adjudicated juveniles who are considered to be “minimum security risks”. Security risk implies a commitment status, not a probation status.
- c The amendment to the bill does not address who would be responsible for coordinating the referrals and transport of juveniles to and from out-of-state facilities.

Any out-of-state placement for adjudicated juveniles requires that the CYFD request and receive acceptance of supervision of the juvenile from the receiving state through the Interstate Compact on Juveniles.

OTHER SUBSTANTIVE ISSUES

The bill, according to CYFD, is contrary to the department’s philosophy of providing services for these juveniles in New Mexico. CYFD considers it in the best interests of the adjudicated juveniles to place them in programs in New Mexico and to continue to develop needed resources in the state. CYFD also has concerns about the ability to monitor the quality and safety of out-of-state programs.

The bill, maintains CYFD, is also contrary to earlier legislative intent, which mandated, in the residential treatment services category, the return of all children placed in out-of-state facilities.

BD/ar