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FISCAL IMPACT REPORT

ORIGINAL DATE 2/21/07

SPONSOR Beffort LAST UPDATED _____ HB _____

SHORT TITLE Law Enforcement Locating Missing Children SB 857

ANALYST Lucero

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	\$1,200.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with HB449
Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Children, Youth and Families Department (CYFD)
Department of Public Safety (DPS)
Public Defender Department (PDD)
Administrative Office of the Courts (AOC)
Indian Affairs Department (IAO)

SUMMARY

Synopsis of Bill

Senate Bill 857 appropriates \$1,250,000 from the general fund to Children, Youth and Families Department split as follows:

- \$900.0 to provide counseling services to runaway children and their families. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.
- \$350.0 for staffing and operating a segregated safe area in statewide juvenile detention centers and juvenile receiving homes. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

The bill amends sections of Chapter 32A of the Children’s Code (NMSA 1978) and adds two new sections.

Section 1: Amends Section 32A-1-4 (1993) to add a newly defined facility for detaining runaway children.

- “juvenile receiving home” means an emergency residential care facility for non-delinquent juveniles

Section 2: Amends Section 32A-3B-4 (1993) by striking the authority of CYFD to determine placement in an appropriate detention location or return to the parent or guardian, if child safety can be assured, when contacted by law enforcement about a child taken into protective custody. The bill would also insert a new provision requiring law enforcement to transport a child taken into protective custody to certain types of facilities to include either a juvenile receiving home, police station, sheriff’s office or juvenile justice detention center. A center may be utilized only if the facility has an area for children in protective custody that is segregated from indicted or adjudicated delinquent children. The child must be held until:

- protective custody has expired and no petition to extend custody is filed;
- the child is placed by CYFD into foster care; or
- the child is returned to the parent or guardian, if child safety can be assured.

In addition, the bill strikes the provision allowing children in protective custody not to be held involuntarily for more than 2 days, unless a petition to extend custody has been filed.

Section 3: Amends the Children’s Code to add a new provision relating to locating runaway children. When a law enforcement agency receives a report from a parent/guardian that their child, without permission, has left the home and run away, law enforcement may help the parent/guardian locate the child and take the child into protective custody for up to 72 hours.

Section 4: Amends the Children’s Code to add a new provision to create new penalties on children for repetitively running away.

Penalties:

- second time – referred to counseling
- third time – taken to court on misdemeanor charges

FISCAL IMPLICATIONS

The appropriation of \$1,250,000 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund.

The appropriation is not part of Children Youth and Families Department’s request and is not included in the Executive recommendation for the Children Youth and Families Department.

The third runaway offense would subject the child to a delinquency petition and probable Public

Defender representation. This would increase the Public Defender caseload and would likely require additional funding for the Department.

SIGNIFICANT ISSUES

The seventy-two hour protective custody provision in this bill conflicts with the time frames for protective custody in Article 4, The Child Abuse and Neglect Act and Article 3B, The Family in Need of Court-Ordered Services Act. The latter Acts provide for protective custody for two business days.

This bill creates a new delinquency status that was eliminated in New Mexico many years ago and criminalizes the act of running away and the status of being a runaway. The bill requires that runaway children in protective custody not be housed with indicted or adjudicated delinquent children. The bill also creates a new residential placement option called “juvenile receiving home”. The bill does not designate how these types of facilities will be licensed or regulated nor does it designate what agency has the authority to license and/or regulate these types of facilities

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

If passed, the bill will have an administrative impact on children, youth and families department that the bill does not address.

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase. Third-time offenders would be taken to Juvenile Court for a hearing and determination on the misdemeanor penalty.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with HB449

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

Detention is a fairly common punishment in runaway cases. The National Council of Family and Juvenile Court Judges reported that between 1985 and 2002, formally processed runaway cases were more likely to involve detention than were other status offense cases. In addition, youth age 15 and younger accounted for more than two-thirds of runaway cases involving detention. Moreover, females accounted for 58% of runaway cases involving detention. Ultimately,

petitioned runaway cases were least likely to result in the youth being adjudicated a status offender.

Some states also have penalties for aiding, providing shelter or otherwise harboring a runaway child.

Detaining a child for running away can add new trauma to whatever may have motivated the runaway behavior. While running away carries with it certain risks for youth, it does not, in and of itself warrant the creation of a criminal status. It could also force youth intent upon running not to surface for services or interventions because they would face detention.

ALTERNATIVES

Fund school districts in the state to educate children on the risks inherent in runaway behavior. Conducting this educational campaign at an early age and continuing to emphasize it as part of a child's education will go much further than trying to address the problem and its associated risks after it has already occurred.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

DL/mt