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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/1/09

SPONSOR O'Neill LAST UPDATED \_\_\_\_\_ HB 255

SHORT TITLE No 90-Day Parole Requirement for Juveniles SB \_\_\_\_\_

ANALYST Peery-Galon

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

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		(\$3.0)	(\$3.0)	(\$6.0)	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Juvenile Parole Board (JPB)  
 Administrative Office of the Courts (AOC)  
 Children, Youth and Families Department (CYFD)  
 Public Defender Department (PDD)

#### No Response Received From

Attorney General's Office

### SUMMARY

#### Synopsis of Bill

House Bill 255 removes the 90-day mandatory parole requirement for one-year and two-year commitments of juveniles to a Children, Youth and Families Department juvenile justice facility. The proposed legislation also eliminates the 90-day parole requirement for extensions of one-year or two-year commitments.

### FISCAL IMPLICATIONS

JPB reported the elimination of mandatory parole would decrease the number of parole hearings conducted by the board. In FY08, the Juvenile Parole Board conducted 250 hearings. During the first 6 months of FY09, the board has conducted 143 hearings.

AOC reported 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.

PDD reported the proposed legislation could potentially assist the department in reducing its caseload because the State cannot file a petition to revoke a child's parole if the child is not on parole.

CYFD stated the elimination of the 90-day mandatory parole would increase costs for the department by approximately \$300 per client per day, which totals \$27,000 for each client for the additional 90-day period they would be in custody. CYFD reported it needs to analyze how many clients were released in the past fiscal year to determine the budgetary impact on the department.

### **SIGNIFICANT ISSUES**

JPB reported that mandatory parole has placed youth, who have not progressed behaviorally or therapeutically during commitment to a juvenile facility, back into the community while they are still at high risk of re-offending. This affects public safety in regards to juvenile parolees committing new offenses. JPB reported eliminating mandatory parole would allow the facilities to place youth for parole consideration when they have demonstrated a willingness to be rehabilitated by progressing behaviorally and therapeutically.

JPB stated that youth are, at a significant increase, receiving unsatisfactory discharges from parole supervision, revocation of parole, additional commitments to CYFD, and entering the adult correctional system. In FY08, 71 unsatisfactory discharges were issued by the juvenile parole board; to date 66 have been issued in FY09. Parole revocations for FY08 were 13 and currently in FY09 the board has conducted 14.

AOC noted that proposed legislation, in conjunction with 32A-7-8 NMSA 1978, allows the Juvenile Parole Board to significantly reduce the time a delinquent child has been ordered to serve by the court.

CYFD reported the proposed legislation essentially does not require transition planning to reintegrate youth back into their communities, as the 90-day term is currently used for. The change would not prevent the Juvenile Parole Board from paroling youth before the end of their commitments, but would not require it. CYFD stated the proposed legislation could have a significant impact on the population in juvenile facilities by increasing the average stay of one- and two-year commitments by 90 days.

### **PERFORMANCE IMPLICATIONS**

AOC noted the proposed legislation may have an impact on the following district court measures: cases disposed of as a percent of cases filed and percent change in case filings by case type.

## **ADMINISTRATIVE IMPLICATIONS**

JPB noted the board will have fewer parole hearings.

CYFD stated the proposed legislation is likely to increase the length of stay for youth in juvenile facilities which would increase the facility population and require CYFD to provide more services including medical, behavioral health, educational and related-services.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

CYFD reported the proposed legislation conflicts with Senate Bill 248 that proposes significant changes to the Children's Code. These changes include changing the Juvenile Parole Board to a Juvenile Public Safety Advisory Board, allowing CYFD to serve as the releasing authority for those youth committed to the department. As an advisory board it would continue to have many oversight functions including a provision to disagree with any release decision made by CYFD. Some youth could be released early in their commitments while others could be extended longer than their commitments. Senate Bill 248 includes a 90-day mandatory "supervised release" provision that mirrors the current 90-day mandatory parole. Once youth offenders complete the supervised release plan, they would be eligible for release and discharge from CYFD and supervision.

## **OTHER SUBSTANTIVE ISSUES**

JPB noted a substantive issue that has occurred since the inception of the mandatory parole law is the issue of extension of commitments for youth who have done poorly. The extension process is too cumbersome for juvenile facility staff, children's court attorneys, defense counsel and the court judges. Because it is a cumbersome process, extensions are rarely used.

JPB reported in the past several years mandatory parole has been tried in different ways. In 1993, when one-year commitment was introduced youth were incarcerated for six months and given mandatory parole for six months. In 2003, one-year commitments were given mandatory parole for 90 days after serving one year. Since 2005, mandatory parole is for the last 90 days of a youth's commitment on one- and two-year commitments.

## **ALTERNATIVES**

CYFD noted an alternative is to adopt the department's Children Code revisions in Senate Bill 248 that repurposes the Juvenile Parole Board as an advisory board with direct input in decisions relating to the release of youth from juvenile justice facilities.

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