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FISCAL IMPACT REPORT

SPONSOR <u>Sedillo Lopez/Chasey/O’Neill/Ortez</u>	LAST UPDATED <u>2/20/2023</u>
	ORIGINAL DATE <u>1/23/23</u>
SHORT TITLE <u>No Life Sentence for Juveniles</u>	BILL NUMBER <u>Senate Bill 64/aSJC</u>
	ANALYST <u>Chenier</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		Indeterminate but minimal				

Parenttheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Responses Received From

- Children, Youth and Families Department (CYFD)
- Administrative Office of the Courts (AOC)
- New Mexico Corrections Department (NMCD)
- Public Defender Department (PDD)
- New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee Amendment to Senate Bill 328 changes the paragraph on parole eligibility for concurrent or consecutive sentences for multiple convictions. In the case of an “offender serving sentences for convictions arising from multiple cases, the time counted toward parole eligibility for a particular case does not begin to accrue until that sentence for the case is being served.”

Synopsis of Original Bill

Senate Bill 64 eliminates life sentences for youthful offenders without the possibility of release or parole. The bill adds a new section allowing serious youthful offenders to be entitled to parole and a parole hearing after 25 years if the sentence is for two or more convictions of first-degree murder, 20 years if the conviction is for either first degree willful and deliberate murder or first degree depraved-mind murder, or 15 years if the conviction was related to another qualifying

provision of law. The provisions of the bill would retroactively apply to all offenders currently serving an adult sentence for an offense committed as a child.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

CYFD said no one is currently serving a sentence as a youthful offender without the possibility of parole. They also said there would be no fiscal implications to their department.

PDD said Section 3(D) creates a right to counsel and will give rise to additional representation obligations for the LOPD without an appropriation. Although not all who are eligible for a parole hearing may elect to have LOPD representation, all would likely qualify for LOPD representation based on the Indigent Defense Act, which includes “a needy person who is being detained by a law enforcement officer, or who is under formal charge of having committed, or is being detained under a conviction of, a serious crime.” Section 31-16-3(A) NMSA 1978.

SIGNIFICANT ISSUES

CYFD said that according to a January 25, 2021 article from the Sentencing Project, 24 states and the District of Columbia have banned life sentences without the possibility of parole for juveniles. In a handful of other states, including New Mexico, no one is currently serving such a sentence. This bill thus works to align New Mexico with juvenile justice reform efforts throughout the country by acknowledging that children are different from adults in ways that are critical to identifying appropriate criminal sentences. This legislation does not guarantee release of these offenders but provides an opportunity for review to be granted to consider the individual circumstances of each offender.

LOPD provided the following:

In 2012, the United States Supreme Court found that it is unconstitutional to sentence a child to life without parole, except in the rarest of cases. The U.S. Supreme Court and our New Mexico Supreme Court have both recognized that “children are constitutionally different from adults for purposes of sentencing. Because juveniles have **diminished culpability and greater prospects for reform**, . . . ‘they are less deserving of the most severe punishments.’” *Miller v. Alabama*, 567 U.S. 460, 471 (2012) (quoting *Graham v. Florida*, 560 U.S. 48, 68 (2010)) (emphasis added); *see also Ira v. Janecka*, 2018-NMSC-027. Accordingly, children sentenced as adults must be afforded a “meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation.” *Graham*, 560 U.S. at 74; *Ira*, 2018-NMSC-027, ¶ 1.

Children are less capable than adults in long-term planning, regulating emotion, impulse control, and evaluating risks and rewards. They are more susceptible to peer pressure and more vulnerable to their surrounding environments, which are rarely in their control. In the face of these deficits, children are more likely than adults to reform their behavior and be rehabilitated. The cases that have found life sentences unconstitutional represent “a special category under the Eighth Amendment for juvenile offenders whose culpability is

mitigated by adolescence and immaturity.” *Ira*, 2018-NMSC-027, ¶ 1. These constitutional and developmental differences apply to all youthful offenders, regardless of the severity of the offense.

These court cases are informed by developments in psychological studies. *See, e.g.* Laurence Steinberg, *Adolescent Brain Science and Juvenile Justice Policymaking*, 23 *Psychol. Pub. Pol'y & L.* 410, 414 (2017) (outlining the science that concludes “[m]id-adolescence, therefore, is a time of high sensation-seeking but still developing self-regulation--a combination that inclines individuals toward risky behavior.”); *Roper v. Simmons*, 543 U.S. 551, 570 (2005) (“[t]he personality traits of juveniles are more transitory, less fixed” so that “[there is] a greater possibility ... that a minor’s character deficiencies will be reformed.”) (internal quotation marks and citation omitted). Since the Supreme Court cases came down, many states have revisited their sentencing schemes for juvenile offenders. Since that time, 25 states and the District of Columbia have abolished juvenile life without parole. Of those, 14 have created early review mechanisms for those serving long adult sentences.

EC/mg/ne/rl