

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 255

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO CHILDREN; AMENDING THE DEFINITION OF "YOUTHFUL OFFENDER" TO INCLUDE VOLUNTARY MANSLAUGHTER; EXTENDING THE TIME PERIOD FOR SUPERVISED RELEASE; 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 THE "JUVENILE COMMUNITY CORRECTIONS ACT" TO THE "JUVENILE COMMUNITY CONNECTIONS ACT"; AMENDING THE JUVENILE

.231571.4AIC      March 20, 2025 (4:51pm)

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COMMUNITY CONNECTIONS ACT; RENAMING THE "JUVENILE COMMUNITY CORRECTIONS GRANT FUND" TO THE "JUVENILE COMMUNITY CONNECTIONS GRANT FUND"; PROVIDING THAT MONEY IN THE JUVENILE COMMUNITY CONNECTIONS GRANT FUND SHALL BE USED TO OPERATE 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 SJC→; ~~CREATING THE MONETARY STIPEND PROJECT AS A THREE-YEAR PILOT PROJECT TO PROVIDE MONTHLY ASSISTANCE PAYMENTS TO DEMONSTRATE THAT A MONETARY STIPEND FOR BASIC COST-OF-LIVING EXPENSES IMPROVES EDUCATIONAL, EMPLOYMENT AND HEALTH CARE OUTCOMES FOR ADULTS WHO ARE FORMER FOSTER OR DELINQUENT CHILDREN; PROVIDING FOR PROGRAM ELIGIBILITY, PROGRAM TERMS AND REPORTING REQUIREMENTS~~←SJC .

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

SECTION 1. Section 32A-2-3 NMSA 1978 (being Laws 1993, Chapter 77, Section 32, as amended) is amended to read:

"32A-2-3. DEFINITIONS.--As used in the Delinquency Act:

A. "delinquent act" means an act committed by a child that would be designated as a crime under the law if committed by an adult, not including a violation of Section 30-9-2 NMSA 1978, including the following offenses:

- (1) any of the following offenses pursuant to

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municipal traffic codes or the Motor Vehicle Code:

(a) driving while under the influence of intoxicating liquor or drugs;

(b) failure to stop in the event of an accident causing death, personal injury or damage to property;

(c) unlawful taking of a vehicle or motor vehicle;

(d) receiving or transferring of a stolen vehicle or motor vehicle;

(e) homicide by vehicle;

(f) injuring or tampering with a vehicle;

(g) altering or changing of an engine number or other vehicle identification numbers;

(h) altering or forging of a driver's license or permit or any making of a fictitious license or permit;

(i) reckless driving;

(j) driving with a suspended or revoked license; or

(k) an offense punishable as a felony;

(2) buying, attempting to buy, receiving, possessing or being served any alcoholic liquor or being present in a licensed liquor establishment, other than a restaurant or a licensed retail liquor establishment, except in

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the presence of the child's parent, guardian, custodian or adult spouse. As used in this paragraph, "restaurant" means an establishment where meals are prepared and served primarily for on-premises consumption and that has a dining room, a kitchen and the employees necessary for preparing, cooking and serving meals. "Restaurant" does not include an establishment, as defined in regulations promulgated by the director of the special investigations unit of the department of public safety, that serves only hamburgers, sandwiches, salads and other fast foods;

(3) a violation of Section 30-29-2 NMSA 1978, regarding the illegal use of a glue, aerosol spray product or other chemical substance;

(4) a violation of the Controlled Substances Act;

(5) escape from the custody of a law enforcement officer or a juvenile probation or parole officer or from any placement made by the department by a child who has been adjudicated a delinquent child;

(6) a violation of Section 30-15-1.1 NMSA 1978 regarding unauthorized graffiti on personal or real property;

(7) a violation of an order of protection issued pursuant to the provisions of the Family Violence Protection Act; or

(8) trafficking cannabis as provided in

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Section 26-2C-28 NMSA 1978;

B. "delinquent child" means a child who has committed a delinquent act;

C. "delinquent offender" means a delinquent child who is subject to juvenile sanctions only and who is not a youthful offender or a serious youthful offender;

D. "detention facility" means a place where a child may be detained under the Children's Code pending a court hearing and does not include a facility for the care and rehabilitation of an adjudicated delinquent child;

E. "felony" means an act that would be a felony if committed by an adult;

F. "misdemeanor" means an act that would be a misdemeanor or petty misdemeanor if committed by an adult;

G. "restitution" means financial reimbursement by the child to the victim or community service imposed by the court and is limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical, psychiatric and psychological treatment for injury to a person and lost wages resulting from physical injury, which are a direct and proximate result of a delinquent act. "Restitution" does not include reimbursement for damages for mental anguish, pain and suffering or other intangible losses. As used in this subsection, "victim" means a person who is injured or suffers damage of any kind by an act that is the subject of a complaint

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or referral to law enforcement officers or juvenile probation authorities. Nothing contained in this definition limits or replaces the provisions of Subsections A and B of Section 32A-2-27 NMSA 1978;

H. "serious youthful offender" means an individual fifteen to eighteen years of age who is charged with and indicted or bound over for trial for first degree murder. A "serious youthful offender" is not a delinquent child as defined pursuant to the provisions of this section;

I. "supervised release" means the release of a juvenile, whose term of commitment has not expired, from a facility for the care and rehabilitation of adjudicated delinquent children, with specified conditions to protect public safety and promote successful transition and reintegration into the community. A juvenile on supervised release is subject to monitoring by the department until the term of commitment has expired and may be returned to custody for violating conditions of release; and

J. "youthful offender" means a delinquent child subject to adult or juvenile sanctions who is:

(1) fourteen to eighteen years of age at the time of the offense and who is adjudicated for at least one of the following offenses:

(a) second degree murder, as provided in Section 30-2-1 NMSA 1978;

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- (b) assault with intent to commit a violent felony, as provided in Section 30-3-3 NMSA 1978;
- (c) kidnapping, as provided in Section 30-4-1 NMSA 1978;
- (d) aggravated battery, as provided in Subsection C of Section 30-3-5 NMSA 1978;
- (e) aggravated battery against a household member, as provided in Subsection C of Section 30-3-16 NMSA 1978;
- (f) aggravated battery upon a peace officer, as provided in Subsection C of Section 30-22-25 NMSA 1978;
- (g) shooting at a dwelling or occupied building or shooting at or from a motor vehicle, as provided in Section 30-3-8 NMSA 1978;
- (h) dangerous use of explosives, as provided in Section 30-7-5 NMSA 1978;
- (i) criminal sexual penetration, as provided in Section 30-9-11 NMSA 1978;
- (j) robbery, as provided in Section 30-16-2 NMSA 1978;
- (k) aggravated burglary, as provided in Section 30-16-4 NMSA 1978;
- (l) aggravated arson, as provided in Section 30-17-6 NMSA 1978; [✕]

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(m) abuse of a child that results in great bodily harm or death to the child, as provided in Section 30-6-1 NMSA 1978; or

(n) voluntary manslaughter, as provided in Subsection A of Section 30-2-3 NMSA 1978;

(2) fourteen to eighteen years of age at the time of the offense, who is adjudicated for any felony offense and who has had three prior, separate felony adjudications within a three-year time period immediately preceding the instant offense. The felony adjudications relied upon as prior adjudications shall not have arisen out of the same transaction or occurrence or series of events related in time and location. Successful completion of consent decrees is not considered a prior adjudication for the purposes of this paragraph; or

(3) fourteen years of age and who is adjudicated for first degree murder, as provided in Section 30-2-1 NMSA 1978."

**SECTION 2.** Section 32A-2-19 NMSA 1978 (being Laws 1993, Chapter 77, Section 48, as amended) is amended to read:

"32A-2-19. DISPOSITION OF AN ADJUDICATED DELINQUENT OFFENDER.--

A. At the conclusion of the dispositional hearing, the court may make and include in the dispositional judgment its findings on the following:

(1) the interaction and interrelationship of

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the child with the child's parents and siblings and any other person who may significantly affect the child's best interests;

(2) the child's adjustment to the child's home, school and community;

(3) the mental and physical health of all individuals involved, including consideration of such factors as the child's brain development, maturity, trauma history and disability;

(4) the wishes of the child as to the child's custodian;

(5) the wishes of the child's parents as to the child's custody;

(6) whether there exists a relative of the child or other individual who, after study by the department, is found to be qualified to receive and care for the child;

(7) the availability of services recommended in the predisposition report; and

(8) the ability of the parents to care for the child in the home.

B. If a child is found to be delinquent, the court may enter its judgment making any of the following dispositions for the supervision, care and rehabilitation of the child:

(1) transfer legal custody to the department, an agency responsible for the care and rehabilitation of delinquent children, which shall receive the child at a

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facility designated by the secretary of the department as a juvenile reception facility. The department shall thereafter determine the appropriate placement, supervision and rehabilitation program for the child. The judge may include recommendations for placement of the child. Commitments are subject to limitations and modifications set forth in Section 32A-2-23 NMSA 1978. The types of commitments include:

(a) a short-term commitment of [~~one~~ year] SJC→**up to**←SJC fifteen months SJC→~~in a facility~~←SJC for the care and rehabilitation of adjudicated delinquent children. SJC→~~No more than~~←SJC SJC→**Up to**←SJC nine months shall be served at the facility and SJC→~~no less than~~←SJC SJC→**up to**←SJC [~~ninety days~~] six months shall be served on supervised release, unless: 1) a petition to extend the commitment has been filed prior to the commencement of supervised release; 2) the commitment has been extended pursuant to Section 32A-2-23 NMSA 1978; or 3) supervised release is revoked pursuant to Section 32A-2-25 NMSA 1978;

(b) a long-term commitment SJC→~~for no more than~~←SJC SJC→**of up to**←SJC [~~two years~~] twenty-seven months SJC→~~in a facility~~←SJC for the care and rehabilitation of adjudicated delinquent children. SJC→~~No more than~~←SJC SJC→**Up to**←SJC twenty-one months shall be served at the facility and SJC→~~no less than~~←SJC SJC→**up to**←SJC [~~ninety days~~] six months shall be served on supervised release, unless: 1) supervised

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release is revoked pursuant to Section 32A-2-25 NMSA 1978; or  
 2) the commitment is extended pursuant to Section  
 32A-2-23 NMSA 1978;

(c) if the child is a delinquent  
 offender who committed one of the criminal offenses set forth  
 in Subsection J of Section 32A-2-3 NMSA 1978, a commitment to  
 age twenty-one, unless sooner discharged; or

(d) if the child is a youthful offender,  
 a commitment to age twenty-one, unless sooner discharged;

(2) place the child on probation under those  
 conditions and limitations as the court may prescribe;

(3) place the child in a local detention  
 facility that has been certified in accordance with the  
 provisions of Section 32A-2-4 NMSA 1978 for a period not to  
 exceed fifteen days within a three hundred sixty-five day time  
 period; or if a child is found to be delinquent solely on the  
 basis of Paragraph (3) of Subsection A of Section 32A-2-3 NMSA  
 1978, the court shall only enter a judgment placing the child  
 on probation or ordering restitution or both; or

(4) if a child is found to be delinquent  
 solely on the basis of Paragraph (2), (3) or (4) of Subsection  
 A of Section 32A-2-3 NMSA 1978, the court may make any  
 disposition provided by this section and may enter its judgment  
 placing the child on probation and, as a condition of  
 probation, transfer custody of the child to the department for

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a period not to exceed six months without further order of the court; provided that this transfer shall not be made unless the court first determines that the department is able to provide or contract for adequate and appropriate treatment for the child and that the treatment is likely to be beneficial.

C. When the child is an Indian child, the Indian child's cultural needs shall be considered in the dispositional judgment and reasonable access to cultural practices and traditional treatment shall be provided.

D. A child found to be delinquent shall not be committed or transferred to a penal institution or other facility used for the execution of sentences of persons convicted of crimes.

E. Whenever the court vests legal custody in an agency, institution or department, it shall transmit with the dispositional judgment copies of the clinical reports, predisposition study and report and other information it has pertinent to the care and treatment of the child.

F. Prior to any child being placed in the custody of the department, the department shall be provided with reasonable oral or written notification and an opportunity to be heard.

G. In addition to any other disposition pursuant to Subsection B of this section, the court may make an abuse or neglect report for investigation and proceedings as provided

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for in the Abuse and Neglect Act. The report may be made to a local law enforcement agency, the department or a tribal law enforcement or social service agency for an Indian child residing in Indian country.

H. In addition to any other disposition pursuant to this section or any other penalty provided by law, if a child who is fifteen years of age or older is adjudicated delinquent on the basis of Paragraph (2), (3) or (4) of Subsection A of Section 32A-2-3 NMSA 1978, the child's driving privileges may be denied or the child's driver's license may be revoked for a period of ninety days. For a second or a subsequent adjudication, the child's driving privileges may be denied or the child's driver's license revoked for a period of one year. Within twenty-four hours of the dispositional judgment, the court may send to the motor vehicle division of the taxation and revenue department the order adjudicating delinquency. Upon receipt of an order from the court adjudicating delinquency, the director of the motor vehicle division of the taxation and revenue department may revoke or deny the delinquent's driver's license or driving privileges. Nothing in this section may prohibit the delinquent from applying for a limited driving privilege pursuant to Section 66-5-35 NMSA 1978 or an ignition interlock license pursuant to the Ignition Interlock Licensing Act, and nothing in this section precludes the delinquent's participation in an appropriate educational,

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counseling or rehabilitation program.

I. In addition to any other disposition pursuant to this section or any other penalty provided by law, when a child is adjudicated delinquent on the basis of Paragraph (6) of Subsection A of Section 32A-2-3 NMSA 1978, the child shall perform the mandatory community service set forth in Section 30-15-1.1 NMSA 1978. When a child fails to completely perform the mandatory community service, the name and address of the child's parent or legal guardian shall be published in a newspaper of general circulation, accompanied by a notice that the parent or legal guardian is the parent or legal guardian of a child adjudicated delinquent for committing graffiti."

**SECTION 3.** Section 32A-2-25 NMSA 1978 (being Laws 1993, Chapter 77, Section 54, as amended) is amended to read:

"32A-2-25. PAROLE REVOCATION--ABSCONDING FROM SUPERVISED RELEASE--PROCEDURES.--

A. A child on parole from an agency that has legal custody who violates a term of parole may be proceeded against in a parole revocation proceeding conducted by the department or the supervising agency or by a hearing officer contracted by the department who is neutral to the child and the agency in accordance with procedures established by the department in cooperation with the juvenile parole board. A juvenile probation and parole officer may detain a child on parole status who is alleged to have violated a term or condition of

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parole until the completion and review of a preliminary parole revocation hearing. A child may waive the right to a preliminary parole revocation hearing after consultation with the child's attorney, parent, guardian or custodian.

B. If a retake warrant is issued by the department upon the completion of the preliminary parole revocation hearing, the juvenile institution to which the warrant is issued shall promptly transport the child to that institution at the expense of the department. If a child absconds from parole supervision and is apprehended in another state after the issuance of a SJC→~~retake~~←SJC warrant by the SJC→~~department~~←SJC SJC→~~district court~~←SJC , the juvenile justice division of the department shall cause the return of the child to this state at the expense of the department.

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

SECTION 4. Section 33-9A-1 NMSA 1978 (being Laws 1988, Chapter 101, Section 39, as amended) is amended to read:

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

SECTION 5. Section 33-9A-2 NMSA 1978 (being Laws 1988, Chapter 101, Section 40, as amended) is amended to read:

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

A. "child" means a person who is less than eighteen years old;

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

~~[B.]~~ C. "department" means the children, youth and families department;

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

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

~~[E.]~~ F. "volunteer services" means services provided by individuals or organizations without compensation, reimbursement or award of any type;

G. "youth" means a person who is eighteen years or older but less than twenty-six years old; and

H. "youthful offender" means a youthful offender as defined by Subsection J of Section 32A-2-3 NMSA 1978 who is

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subject to juvenile sanctions and does not include a delinquent child subject to adult sanctions."

SECTION 6. Section 33-9A-3 NMSA 1978 (being Laws 1988, Chapter 101, Section 41, as amended) is amended to read:

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

A. There is created in the state treasury the "juvenile community [~~corrections~~] connections grant fund" to be administered by the department. All balances in the fund are appropriated to the department to carry out the purposes of the fund, and no money shall be transferred to another fund or be encumbered or disbursed in any manner except as provided in the Juvenile Community [~~Corrections~~] Connections Act. Disbursements from the fund shall be made only upon warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of children, youth and families.

B. Money in the fund shall be used by the department to make grants to counties, municipalities or private organizations, individually or jointly, to provide community [~~corrections~~] programs and services for the diversion of [~~adjudicated delinquents~~] delinquent children or youthful offenders subject to juvenile sanctions or children or youth referred by the department to community-based settings. No grant shall be made to a private organization that is not a

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nonprofit organization without the approval of the secretary. The department ~~may~~ shall also use money in the fund to contract directly for or operate ~~[juvenile community corrections]~~ programs that provide services for delinquent children or youthful offenders subject to juvenile sanctions or children or youth referred by the department.

C. No more than ~~ten~~ twelve percent of the money in the fund shall be used by the department for administration and program monitoring by the department. No more than ~~ten~~ twelve percent of any grant from the fund shall be used for administrative costs incurred by the grantee.

D. After notice and public hearing as required by law, the secretary shall adopt ~~[regulations]~~ rules that provide standards for qualifications for grants, priorities for awarding of grants and other standards regarding ~~[juvenile community corrections]~~ programs ~~[deemed necessary]~~ that provide services for delinquent children or youthful offenders subject to juvenile sanctions or children or youth referred by the department. The department shall review and approve or disapprove all applications submitted pursuant to the Juvenile Community ~~[Corrections]~~ Connections Act for a grant of funds from the fund.

E. The department shall submit an annual report to the governor and legislature not later than December 15 providing information on grant awards, program effectiveness

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and monitoring efforts and making recommendations as necessary to carry out the purpose of the fund.

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

SECTION 7. Section 33-9A-4 NMSA 1978 (being Laws 1988, Chapter 101, Section 42, as amended) is amended to read:

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

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

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

(2) the applicant certifies that ~~[it]~~ the applicant is willing and able to operate the program according to standards provided by the department, which may include the negotiation of a ~~[contract]~~ program agreement or service agreement between the ~~[delinquent]~~ child or youth and program staff with provisions such as deductions from employment income

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for applicable victim restitution, family support, room and board, savings and weekly allowance. In addition to monetary restitution, to the extent practical, or if monetary restitution is not applicable, the ~~[contract]~~ program agreement or service agreement may include provision for community service restitution for a specific number of hours;

(3) the applicant demonstrates the support of key components of ~~[the criminal justice system]~~ prevention, intervention and diversion;

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

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

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

SJC→~~B. Applications for funding shall be given priority based upon subject matter, as follows:~~←SJC

SJC→B. Grants from the fund shall be awarded as follows:←SJC

(1) SJC→~~applications for funding~~←SJC programs focused on decreasing violence, gun violence, alcohol and

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substance abuse, gang activity, criminal mentality, trauma, anger management and improving mental health SJC→~~shall be given first priority~~←SJC ;

(2) SJC→~~applications for funding~~←SJC programs focused on education, literacy, financial literacy, job training, apprenticeships, food justice and housing SJC→~~shall be given second priority~~←SJC ; and

(3) SJC→~~applications for funding~~←SJC programs focused on arts, performing arts, sports, music, debate and leadership SJC→~~shall be given third priority.~~←SJC SJC→.←SJC

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

[E.] D. The department may utilize not more than twenty-five percent of the fund [~~to contract directly for community corrections programs~~] for a program agreement or service agreement that provides services for delinquent children or youthful offenders subject to juvenile sanctions or

children or youth referred by the department or to establish programs operated by the department; provided, however, that the department may utilize up to an additional ten percent of the fund to operate [~~juvenile community corrections~~] programs that provide services for delinquent children or youthful offenders subject to juvenile sanctions or children or youth referred by the department if, after a reasonable effort to solicit proposals, there are no satisfactory proposals from a community where it is determined that a program is necessary or if it becomes necessary to cancel a program as provided in the contract.

[D-] E. The department shall establish additional guidelines for allocation of funds under the Juvenile Community [~~Corrections~~] Connections Act. An applicant shall retain the authority to accept or reject the placement of [~~any delinquent~~] a child or youth in a program."

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

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

A. [~~The department shall establish a state panel~~] A county, municipality or private organization, individually or jointly, may establish a local panel whose duties shall be to immediately screen and identify delinquents sentenced to a juvenile [~~correctional~~] facility of the department and transferred to the legal custody of the department. [~~except~~

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~~individuals who are sentenced or transferred from a judicial district that has established a local panel to exercise these duties pursuant to the provisions of this section and who meet the following criteria:~~

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

~~(2) the child is willing to enter into a contract that establishes objectives that shall be achieved before release from the program]~~ The composition of a local panel shall include representatives from the judiciary, the public defender department or the public defender department's designee, the district attorney or the district attorney's designee, the local schools, the department, the county sheriff or the municipal police department, individuals representing local programs and private citizens.

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

C. If the [~~state~~] local panel determines that a child is suitable for placement in a program, a recommendation

to that effect and for modification of disposition shall be presented as soon as possible to the sentencing judge or the department, which may, notwithstanding any provision of law, accept, modify or reject the recommendation. The determination shall be presented to the county, municipality or private nonprofit organization, as applicable, for approval or rejection.

~~[D. A county, municipality or private nonprofit organization, individually or jointly, may establish a local panel to exercise the duties and responsibilities of the state panel pursuant to the provisions of Subsection A of this section and, using the same criteria as the state panel, the local panel may screen and identify delinquents. The composition of a local panel shall include, to the maximum extent possible, representatives of the judiciary, the administrative office of the district attorneys, the public defender department, the children, youth and families department, the county sheriff or the municipal police department, individuals representing local programs and private citizens.]"~~

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

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

A. In every case where the commitment to the authority of a child adjudicated delinquent is contemplated by

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a judge, a predisposition report shall be prepared containing the recommendation of the juvenile probation officer regarding a community corrections placement or a diagnostic evaluation shall be completed by the authority containing the recommendation of the authority regarding that placement and the judge shall consider that report or evaluation prior to making that commitment. A juvenile probation officer shall consult with the authority prior to making a recommendation pursuant to this subsection.

B. At a sentencing hearing, if a judge of a court of competent jurisdiction determines placement in community corrections is appropriate, ~~[he]~~ the judge shall defer or suspend the sentence and, as a condition of probation, require ~~[an individual]~~ the child to serve a period of time in a community corrections program. The judge shall consider whether the available services and program participation will support the child during probation. After considering the totality of the circumstances, the judge may order services or program participation as a condition of probation if such an order is likely to reduce recidivism, support the mental health of the child or encourage education, job training and financial literacy."

SECTION 10. Section 41-4-3 NMSA 1978 (being Laws 1976, Chapter 58, Section 3, as amended) is amended to read:

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

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- A. "board" means the risk management advisory board;
- B. "governmental entity" means the state or any local public body as defined in Subsections C and H of this section;
- C. "local public body" means all political subdivisions of the state and their agencies, instrumentalities and institutions and all water and natural gas associations organized pursuant to Chapter 3, Article 28 NMSA 1978;
- D. "law enforcement officer" means a full-time salaried public employee of a governmental entity, or a certified part-time salaried police officer employed by a governmental entity, whose principal duties under law are to hold in custody any person accused of a criminal offense, to maintain public order or to make arrests for crimes, or members of the national guard when called to active duty by the governor;
- E. "maintenance" does not include:
  - (1) conduct involved in the issuance of a permit, driver's license or other official authorization to use the roads or highways of the state in a particular manner; or
  - (2) an activity or event relating to a public building or public housing project that was not foreseeable;
- F. "public employee" means an officer, employee or servant of a governmental entity, excluding independent

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contractors except for individuals defined in Paragraphs (7), (8), (10), (14) and (17) of this subsection, or of a corporation organized pursuant to the Educational Assistance Act, the Small Business Investment Act or the Mortgage Finance Authority Act or a licensed health care provider, who has no medical liability insurance, providing voluntary services as defined in Paragraph (16) of this subsection and including:

- (1) elected or appointed officials;
- (2) law enforcement officers;
- (3) persons acting on behalf or in service of a governmental entity in any official capacity, whether with or without compensation;
- (4) licensed foster parents providing care for children in the custody of the [~~human services department, corrections department or department of health~~] state, but not including foster parents certified by a licensed child placement agency;

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

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

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

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

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

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

(11) members of the board of directors of the 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

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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 committee;

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

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

SECTION 11. Section 41-13-2 NMSA 1978 (being Laws 1999, Chapter 268, Section 3) is amended to read:

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

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

B. "governmental entity" means the state or a local

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public body;

C. "immune contractor" means a person that:

- (1) is an independent contractor; ~~and~~
- (2) contracts with a governmental entity to

provide:

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

(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;

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(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;

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

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

~~SJC→SECTION 12. TEMPORARY PROVISION--PILOT--MONETARY STIPEND PROJECT--ELIGIBILITY--PROGRAM TERMS--REPORTING AND EVALUATION.--~~

~~A. The "monetary stipend project" is created as a three-year pilot project that provides monthly assistance payments to eligible adults and measures the effect of monetary stipends on socioeconomic outcomes. The purpose of the monetary stipend project is to demonstrate that a monetary stipend for basic cost-of-living expenses improves educational, employment and health care outcomes for adults who are former~~

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~~foster or delinquent children. The monetary stipend project shall be administered by the higher education department.~~

~~B. An eligible participant in the monetary stipend project shall be a New Mexico resident, United States citizen or lawful permanent resident and an adult who is less than twenty-six years of age and who is a former foster child, was adjudicated and incarcerated pursuant to the Delinquency Act or who participated in and aged out of the fostering connections program as provided in the Fostering Connections Act and is:~~

~~(1) enrolled in a post-secondary educational program;~~

~~(2) participating in an apprenticeship program or workforce development recognized by the workforce solutions department; or~~

~~(3) participating in a program or activity designed to promote employment or remove barriers to employment.~~

~~C. Subject to appropriation, the higher education department shall determine the amount of a monetary stipend in consultation with the health care authority. The amount of a monetary stipend shall be individualized for each participant and adjusted based on the participant's income and on other public assistance that the participant receives; provided that a monetary stipend shall not exceed two thousand dollars (\$2,000) per month. A monetary stipend may be expended on~~

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~~cost-of-living expenses, including housing expenses, as provided by rule.~~

~~D. The higher education department shall promulgate rules for the form and manner of the application, procedures and criteria for reviewing applications, the methodology for evaluating participants and other rules necessary to carry out the provisions of this section. If the higher education department determines that the federal Social Security Act requires waivers or authorizations from the United States in order to carry out the monetary stipend project, the department shall notify the health care authority, and the authority shall request such waivers or authorizations no later than December 31, 2025.~~

~~E. The higher education department shall report to the interim legislative health and human services committee on May 1 and November 1 of each year of the monetary stipend project. No later than October 1, 2031, the higher education department shall provide a final report to the interim legislative health and human services committee on the outcomes for the participants, the fiscal impact of the program and other recommendations that the higher education department deems appropriate."~~ ←SJC

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