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FISCAL IMPACT REPORT

ORIGINAL DATE 1/29/08
 SPONSOR King LAST UPDATED 2/2/08 HB 491/aHJC
 SHORT TITLE Avoid Taking Children of Incarcerated Parents SB _____
 ANALYST Lucero

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	\$50.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to: SB455 “Next generation fund”

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Children, Youth and Families Department (CYFD)
 New Mexico Corrections Department (NMCD)

SUMMARY

Synopsis of House Judiciary Committee Amendment

House Judiciary Committee Amendment to House Bill 491 strikes the words “through the children’s trust fund” on line 19.

The bill as amended provides greater authority to CYFD over how the appropriation contained in this bill may be expended. As amended, CYFD may be able to utilize the funds contained in this bill to match with federal funds.

Synopsis of Original Bill

House Bill 491 appropriates five hundred thousand (\$500,000) from the general fund to Children, Youth and Families Department (CYFD) for expenditure in FY09 to help, through the children’s trust fund, to avoid unnecessarily taking children into custody when their parents are incarcerated by creating points of contact with community providers to provide a safe place for these children and to link the children with appropriate services.

FISCAL IMPLICATIONS

The appropriation of five hundred thousand (\$500,000) contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of 2009 shall revert to the general fund.

The executive recommendation for CYFD included a \$600.0 recurring appropriation to support the children's trust fund programs for children of incarcerated parents. The House Appropriations and Finance Committee recommended \$400.0 for children of incarcerated parents.

SIGNIFICANT ISSUES

CYFD reports that as a result of the governor's Executive Order 2006-022, a multi-agency blue ribbon commission (BRC) on the welfare of children of jailed and incarcerated parents was created to formalize a process for identifying dependent children at the time of parental arrest, ensuring that children have access to parents through visitation, and linking children and caregivers (grandparents and other family members) to services and resources in the community.

It is estimated that there are approximately 5,000 children in New Mexico today who were living with their parent when their parent was arrested and sent to prison. A law passed in 2007 requiring law enforcement officers to inquire about dependent children upon parental arrest. A multi-agency workgroup has identified a gap in services for these children. Law enforcement, once they have determined the existence of a child, must ensure the child's safety and well-being. Without a service or resource immediately available to them, law enforcement may place the child in CYFD custody. This results in a large number of children coming into custody on a short-term basis until CYFD identifies family members or kin to care for the child during the parental incarceration. The practice of short-term CYFD custody of children of arrested parents may contribute to the trauma experienced by the child as these children may be placed in foster care for several days when in fact there is a family member able to provide for the child.

The appropriation included in this bill would be used to create capacity with community providers to provide a safe place for these children and to link children with appropriate services.

Research indicates that children whose parents have been arrested and incarcerated face unique risks. Children may experience the trauma of sudden separation from their sole caregiver and are vulnerable to feelings of fear, anxiety, anger, sadness, depression and guilt. As a result of arrest or incarceration of a parent, the children may be moved from caretaker to caretaker. The behavioral consequences can be severe including emotional withdrawal, failure in school, delinquency and risk of intergenerational incarceration.

PERFORMANCE IMPLICATIONS

Providing services to children of incarcerated parents would prevent these children from unnecessarily coming into foster care and straining placement resources.

ADMINISTRATIVE IMPLICATIONS

CYFD would absorb any additional administrative functions required as a result of this

legislation with existing resources.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to SB455 “Next generation fund”

Relates to Appropriation in the General Appropriation Act

TECHNICAL ISSUES

CYFD reports that this appropriation should be made to CYFD without the requirement that it be expended through the Children’s Trust Fund.

While it appears that the intent of the bill is to avoid unnecessarily taking children into custody when a parent is arrested or incarcerated; a need exists to develop programming for children with parents who are already in prison. Federal programs such as AmeriCorps, AmeriCorps*Vista, and Senior Corps can provide matching federal funds for mentoring programs for children of incarcerated parents. In other states AmeriCorps*VISTA members build capacity and generate community volunteers to support the mentoring program effort and Senior Corps volunteers provide a base of mentors. CYFD currently administers the AmeriCorps and AmeriCorps*Vista programs.

OTHER SUBSTANTIVE ISSUES

The Corrections Department reports that the department may indirectly benefit from this bill if the CYFD money is used to help pay for various visitation programs between Department inmates and their children. Therefore, the bill could positively influence how certain inmates behave in prison and the relationships between those inmates and their children. The bill might also help prevent the parents from committing more crimes once they are out of prison (because of their closer, loving relationships with their children that were established while the parents were still incarcerated). By keeping the children out of state custody, the bill could help prevent these children from turning to crime or a criminal lifestyle as well.

ALTERNATIVES

Remove the language on line 19 “through the children’s trust fund,” so that CYFD can use the \$500,000 to match with AmeriCorps federal funds to establish mentoring programs for children of incarcerated parents.

DL/mt