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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 02/04/14  
**LAST UPDATED** 02/14/14    **HB** CS/CS/187/HJC

**SPONSOR** HJC

**SHORT TITLE** Child Supervised Parole Time Calculation    **SB** \_\_\_\_\_

**ANALYST** Chenier

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

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Unknown	Unknown	Unknown	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

- Children Youth and Families Department (CYFD)
- Administrative Office of the Courts (AOC)
- Administrative Office of the District Attorneys (AODA)
- Attorney General’s Office (AGO)
- New Mexico Sentencing Commission (NMSC)
- Public Defender Department (PDD)

### SUMMARY

#### Synopsis of Bill

The House Judiciary Committee Substitute for the House Consumer and Public Affairs Committee substitute for House Bill 187 amends the Delinquency Act changing the term “parole” in all instances throughout to “supervised release” and references to juvenile “institutions” to “facilities.” It also replaces current language, juvenile “parole board,” with juvenile “public safety advisory board and any other person designated by the department.”

It also adds Subsection D which stipulates that if a warrant to return the child to the custodial agency cannot be served the child is deemed a fugitive from justice. It further clarifies upon the child’s ultimate return a hearing shall be held, in accordance with the Juvenile Public Safety Advisory Board, to determine whether credit for time tolled shall be given.

### FISCAL IMPLICATIONS

This bill may carry significant fiscal implications for several agencies requiring additional FTE.

Depending on the child's status, the contemplated hearings may require representation by attorneys. It is unclear how many additional fugitive determination hearings may be necessary beyond the parole retake hearing (see *infra* Significant Issues). Any additional hearings may also necessitate the presence of counsel. Required presence at additional hearings would result in increased caseloads.

## **SIGNIFICANT ISSUES**

A child whose parole period would otherwise have expired may have their parole period extended by the time they are deemed to be a fugitive. Though it is unknown how many children's parole periods expire before they are arrested on a retake warrant, it is likely the overall number of children on parole will increase.

AODA provided the following analysis:

Prosecutors currently and routinely take juveniles into court for revocation hearings, and will argue for a tolling of time limits when efforts have been made in vain to find the child under terms of an arrest warrant from Children's Court. This bill would provide a similar tolling option in the case of a retake warrant from CYFD, with the safeguard of a hearing to review whether in fact the tolling should stand and whether the child gets credit for the time spent in abstention. Currently, in order to declare an adult offender a fugitive and to uphold tolling of time, prosecutors must show very clearly that efforts were in fact made to locate the fugitive, not just that a warrant was posted to law enforcement sites. It is certain CYFD administrators would be held to the same such standards in juvenile cases upon any court review of their decision.

CYFD provided the following:

This bill addresses the problem of youth absconding while on supervised release and remaining on run status until the period of supervised release has expired. Currently, there is no incentive in law or policy for a youth not to abscond. The result is that youth who are subsequently apprehended are discharged from supervision without having completed their programming in the community. This bill tolls the period of supervised release as soon as a district court warrant is issued, with the intention of discouraging youth from absconding, perhaps, and giving CYFD the option of taking the youth back into custody when they are apprehended.

NMSC provided the following:

A MacArthur Foundation report entitled "Juvenile Justice and the Transition to Adulthood" (Chung, Little, Steinberg) (2005) states that youth from the juvenile justice system must contend not only with the underlying problems that may have originally contributed to delinquency, but they also must contend with the barriers created by the sanctioning system itself.

During the period of supervised release, services are available to help juveniles successfully return to their families and communities. There is no mechanism in current law to toll the supervised release term when a child absconds.