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FISCAL IMPACT REPORT

SPONSOR <u>House Judiciary Committee</u>	LAST UPDATED <u>3/20/2025</u> ORIGINAL DATE <u>3/7/2025</u>
SHORT TITLE <u>Rename “Juvenile Corrections Act”</u>	BILL NUMBER <u>CS/House Bill 255/HJCS/aSJC</u>
ANALYST <u>Fischer/Garcia</u>	

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
CYFD	No fiscal impact	At least \$2,000.0	At least \$2,000.0	At least \$4,000.0	Recurring	General Fund
AOC	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
LOPD	No fiscal impact	\$291.0	\$291.0	\$582.0	Recurring	General Fund
Total	No fiscal impact	At least \$2,291.0	At least \$2,291.0	At least \$4,582.0	Recurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Duplicates sections of House Bill 434
 Duplicates sections of House Bill 404
 Conflicts with House Bill 134 and Senate Bill 326

Sources of Information

LFC Files

Agency Analysis Received for Original Bill, Substitute, or Duplicate Bills

Children Youth and Families Department (CYFD)
 Administrative Office of the Courts (AOC)
 Administrative Office of the District Attorneys (AODA)
 Law Office of the Public Defender (LOPD)
 New Mexico Attorney General (NMAG)
 New Mexico Sentencing Commission (NMSC)
 Children, Youth and Families Department (CYFD)
 Health Care Authority (HCA)
 Higher Education Department (HED)
 Independent Community Colleges (ICC)
 Workforce Solutions Department (WSD)

Because of the short timeframe between the introduction of this bill and its first hearing, LFC has yet to receive analysis from state, education, or judicial agencies. This analysis could be updated if that analysis is received.

SUMMARY

Synopsis of SJC Amendment to HJC Substitute for House Bill 255

The Senate Judiciary Committee amendment to the House Judiciary Committee Substitute for House Bill 255 (HB255) removes the section of the bill that would have provided a \$2,000 per month stipend for youth who aged out of foster care or who were adjudicated under the Delinquency Act and in a secure facility, completely striking the pilot program.

The amendments also clarified the extended sentences for delinquent children are “up to,” providing judges with discretion, such that:

- A short-term commitment may be “up to” one year in a facility and “up to” six months on community supervision
- A long-term commitment may be “up to” 27 months and “up to” six months in community supervision

The amendment also clarifies a district court, not the Children Youth and Families Department (CYFD), may issue a retake warrant and that grants awards, not applications, will prioritize the criteria outlined in the section of the bill which expands the uses of the juvenile community corrections grant fund.

Synopsis of House Judiciary Committee Substitute for House Bill 255

The House Judiciary Committee Substitute for House Bill 255 (CS/HB255) amends the definition of a 14 to 18-year-old “youthful offender” to include voluntary manslaughter.

The bill extends the length of different types of sentences for delinquent children (under 18), including extending the short-term commitment to a secure facility from one year to 15 months and extending the length of supervised release for short-term commitment from 90 days to six months. The bill would extend the length of long-term commitments to a secure facility from two years to 27 months and post-release supervision from 90 days to six months. The bill would amend Section 32A-2-25 NMSA of the Children’s Code, which deals with the conditions of parole revocation, to allow for the issuance of a warrant upon an allegation the child has absconded from supervised release. If the child knowingly absconded, the amount of time is then added to the supervised release term.

The bill amends Section 33-9A-6 NMSA 1978 of the Juvenile Community Corrections Act, which deals with sentencing adjudicated delinquent children (under 18) to specify the judge shall take into account whether the available community-based services and participation will support the child during probation. After considering all 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, or financial literacy.

The bill also renames the Juvenile Community *Corrections* Act to the Juvenile Community *Connections* Act, and also renames the associated juvenile community *corrections* grant fund to the juvenile community *connections* grant fund. The bill also adds definitions for child (under 18 years) and youth (under 26 years) to the renamed act.

The bill redefines that the grant fund should be used for any children or youth referred by CYFD, in addition to the diversion of adjudicated delinquents. Currently, the fund is only available for grants serving the latter. The bill further stipulates that prevention, intervention, and diversion programming be prioritized for grant funding and that all applicants for grant funding demonstrate support for key components of prevention, intervention, and diversion services. The bill specifies funding priority shall be given to programs focused on decreasing gun violence, gang activity, substance use treatment, behavioral health, and other specific services. The bill outlines secondary and tertiary priority programs.

The bill moves responsibility for establishing a statewide selection panel for screening juvenile delinquents into a facility or community programming from CYFD to “a county, municipality or private organization, individually or jointly.” The composition of the local panel is set to be representatives from the judiciary, the local schools, the department, the county sheriff or the municipal police department, and individuals representing local programs and private citizens.

The bill increases the existing 10 percent cap on administrative spending from the fund to 12 percent.

The bill also cleans up language in the state Tort Claims Act and Governmental Immunity Act regarding the liability of foster caregivers of children in state custody.

Finally, the bill creates a three-year pilot program to pay monetary cost-of-living stipends not to exceed \$2 thousand to former foster children or children adjudicated under the Delinquency Act under the age of 26 who participated in and aged out of the fostering connections program. The bill requires the Higher Education Department (HED) to administer the program and determine stipends on an individual basis in consultation with the Health Care Authority. HED is required to report on program outcomes to the Legislative Health and Human Services Committee twice a year. (This section of the bill was struck by the Senate Judiciary Committee amendment.)

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

HB255 does not contain an appropriation.

Extending Sentences of Delinquent Children. In analysis for a similar proposal contained in a different bill (House Bill 434), CYFD reports no fiscal impact resulting from the bill. However, the agency will likely experience increased costs within Juvenile Justice Services (JJS) if youth are committed to longer periods of time in secure facilities and remain on community supervision for longer periods of time, increasing caseloads within JJS.

Incarceration drives costs in the criminal justice system, so any changes in the number of individuals in juvenile detention facilities, jail, or prison and the length of time served in prison, juvenile detention, or jail that might result from this bill could have significant fiscal impacts. The creation of any new crime, increase in severity, removing alternatives to incarceration, or increase of sentencing penalties will likely increase the population in New Mexico’s juvenile detention facilities and on juvenile probation (community supervision). This bill both adds voluntary manslaughter to the definitions of youthful offenders and increases juvenile sentences.

In 2020, the Justice Policy Institute estimated the national average cost for secure juvenile confinement was \$588 per day, or \$214 thousand annually. A 2023 LFC program evaluation progress report on juvenile justice noted the per-client cost in a secure juvenile justice facility was \$383 thousand, though the evaluation noted the cost per client had increased 44 percent since FY19, as the number of clients in secure facilities decrease. CS/HB255 increases the length of short-term commitment by roughly 30 percent. However, the Senate Judiciary Committee amendment clarifies this extended sentence is at the discretion of the judge. It is difficult to determine, thus, how many juveniles might receive longer sentences and how daily census in secure facilities might increase. Assuming the 2020 national average cost, if New Mexico were to increase the number of youths in secure juvenile justice facilities by five clients, the state could experience estimated annual cost increase of roughly \$1 million annually to the general fund.

The LFC progress report also estimated the per-referral, per-year cost of field supervision to be \$2,900 annually. According to CYFD data, total weekly caseloads among juvenile probation officers were 1,207. Again, the Senate Judiciary Committee amendment clarifies the judge has the discretion to increase community supervision up to six months. If the number of youth under community supervision were to increase by roughly 30 percent (362 juveniles), the state could expect increased costs of roughly \$1 million annually.

In recent years, the Juvenile Justice Services budget within CYFD has had significant reversions and the agency may be able to absorb some of the potential increased costs.

In analysis submitted for a similar statutory proposal (House Bill 434), the Administrative Office of the Courts (AOC) notes potential administrative costs associated with update, distribution, and documentation of statutory changes as well as potential cost increases associated with any statutory change that may impact caseloads within the judiciary. AOC also notes, whenever a commitment extension is requested, the court must hold a hearing under Section 32A-3-23 NMSA 1978. House Bill 434 would increase the length of commitments, AOC projects an increase in requests for extensions and therefore court hearings. This increase will result in additional judge and court staff time, potentially increasing time to dispose of cases and increasing costs.

The Law Offices of the Public Defender (LOPD) reported in analysis for a similar bill, adding new acts to the definition of youthful offender and extending juvenile sentences will likely increase costs because more defendants may prefer to risk a trial rather than seeking a plea at a greater penalty. More higher-penalty trials may result in the need for LOPD to hire more trial attorneys, though LOPD did not provide a specific cost estimate. The office notes the cost of a mid-point level public defender, including benefits, support staff, and operating costs, to be roughly \$291 thousand annually. This analysis assumes LOPD may need to hire at least one additional attorney should the bill pass.

The Administrative Office of the District Attorneys (AODA) and the Department of Public Safety (DPS) reported no fiscal impact resulting from the bill.

Juvenile Community Corrections Grant Fund. CYFD's juvenile community corrections grant fund is a nonreverting fund that has carried over increasing balances since FY19. The fund ended FY24 with a \$6.1 million balance. Grants made from the fund in FY24 totaled \$1.3

million.

Juvenile Community Corrections Grant Fund Balances

FY24 (unaudited)	\$6,148,945
FY23	\$7,177,286
FY22	\$6,209,130
FY21	\$6,103,210
FY20	\$4,993,947
FY19	\$4,116,908

Source: CYFD annual audits and SHARE

FY24 Payments from CYFD's Juvenile Community Corrections Grant Fund

FAMILIES AND YOUTH INC	\$291,875
PB & J FAMILY SERVICES INC	\$275,907
THE COUNSELING CENTER INC	\$164,859
BORDER AREA MENTAL HEALTH SVC INC	\$119,168
CHAVES COUNTY CASA	\$118,898
YOUTHWORKS INC	\$73,595
REGIONAL AGENCY INTERVENTION NETWORK	\$65,954
GUIDANCE CENTER OF LEA COUNTY INC	\$59,982
RIO ARRIBA COUNTY	\$55,429
DESERT VIEW INC	\$43,644
H2 ACADEMIC SOLUTIONS	\$34,335
CATHOLIC CHARITIES OF GALLUP	\$16,516
NURSTEAD CONSULTING SERVICES LLC	\$10,080
Total	\$1,330,241

Source: SHARE

For FY25, CYFD is projecting total expenditures from the fund to be \$2.84 million. However, in recent years CYFD has spent less than budgeted, contributing to the growing fund balance. The LFC and executive budget recommendations for expenditures for the juvenile community corrections fund in FY26 include the use of \$1.8 million in fund balance. Should this bill pass, expenditures from the fund could increase over time, spending the fund balance down.

The expansion of community-based intervention services included within the expanded uses of the grant program could result in fewer referrals or commitments, but it is difficult to estimate the fiscal impact.

CYFD reports no fiscal impact related to a similar legislative proposal.

Pilot Program.

The Senate Judiciary Committee amendment entirely strikes the pilot stipend program from the bill.

According to federal Administration for Children and Families data in recent years, between 50 and 80 young people age out of foster care in any given year. In FY23, CYFD reported that roughly 280 young adults received in-home services through the Fostering Connections Program, roughly 58 young adults participated in extended foster care behavioral health service coordination, and roughly 34 young adults received transitional living supportive housing.

Additionally, the bill would allow any young adult adjudicated under the Delinquency Act and incarcerated to receive the stipend. In recent years, the total population in state secure facilities average 80, but ticked up in FY24 to roughly 100. Both populations would be eligible to receive the stipend until age 26.

Assuming participating individuals received the maximum stipend of \$24 thousand per year, and an estimated 100 young people become eligible for each year and remain eligible for 8 years, total stipend costs could reach \$14.4 million.

To properly evaluate the effect of the pilot program, HED would need to develop a common set of measures to benchmark and create a treatment group that receives the intervention and a control group which does not receive the intervention to compare outcomes requiring HED to make decisions on which individuals to accept into the pilot program.

The HAFC substitute for the General Appropriations Act does not contain an appropriation for this pilot program.

SIGNIFICANT ISSUES

Extending Sentences for Delinquent Children. CS/HB255 would allow for increased sentences within Section 32A-2-19 related to delinquent offenders and youthful offenders, which AOC reports involve children who have been charged with less serious offenses or have low risk profiles. These children generally have lower risk profiles because they have been proven amenable to treatment and rehabilitation. AOC also cites research published by the Annie E. Casey Foundation which suggests children with low-risk profiles and less serious offense histories are more likely to reoffend if they are committed to a residential facility.

CYFD analysis indicates JJS staff provided input regarding CS/HB255 and support the provisions of the bill, noting:

The additional three months on supervised release will give CYFD up to six months to work with children and youth on supervised release. This added time provides youth with a critical safety net that may prevent recidivism that results when the youth is not ready for total independence. This bill will also provide the Supervised Release Panel with the opportunity to review the cases and determine whether the client is ready for supervised release without having to release the client at nine-months in order to satisfy the current mandatory release time. This will allow those clients who need additional time and structure in the facility to have it before being released.

AODA and DPS suggested extending the amount of time juveniles spend in supervised release could provide CYFD and the child more time to integrate back into society and the family setting, while extending commitment up to 18 months would provide the court with greater discretion when sentencing a delinquent child.

Research, including a 2018 meta-analysis published in the *International Journal of Offender Therapy and Comparative Criminology*, indicates that after-care or reentry supervision has small but positive and statistically significant effects on juvenile recidivism. However, this research did not consider duration of reentry supervision programs.¹

¹ Bouchard, J., & Wong, J. S. (2018). Examining the effects of intensive supervision and aftercare programs for at-risk youth: A systematic review and meta-analysis. *International Journal of Offender Therapy and Comparative Criminology*, 62(6), 1509-1534.

The Sentencing Commission Juvenile Committee reviewed and was split regarding the proposals contained within the bill related to allowing for extended sentences for juvenile offenders; while some members noted the proposed increases to supervision would allow CYFD to have more time to provide services to children who need them, other members objected to provisions to allow CYFD to hold children for longer and allow courts to impose harsher punishments. The Sentencing Commission analysis for a similar bill (HB434) cites New Mexico Juvenile Justice Advisory Committee data indicating referrals to juvenile probation in FY24 (7,622) were 27 percent below pre-pandemic levels.

LOPD analysis suggests while the bill appears to remove mandatory minimum terms for supervised release for juveniles, it would also expand the maximum terms of supervised released, giving judges more discretion on duration in either direction.

AOC also notes CS/HB255 would require adjudicated youth be committed to facilities for more than three times the national average. However, the Senate Judiciary Committee amendments clarify the expanded terms are “up to” the new lengths and at the discretion of the sentencing judge. According to the U.S. Office of Juvenile Justice and Delinquency Prevention, between 1997 and 2021, half of committed youth were committed for less than 117 days. AOC notes CS/HB255 would require all delinquent offenders sentenced at the short-term level to a residential facility be committed for up to 365 days.

LOPD also cites research indicating the length of commitment and supervised release for juveniles does not address root causes of juvenile delinquency, noting the prevalence of adverse childhood experiences among the juvenile offenders.

Community Corrections Grant Fund. CYFD notes that HB255, as introduced, is sponsored by the NM Sentencing Commission and supported by CYFD. The original bill contained the changes to the Community Corrections Grant Fund. The department states that HB255’s primary goal is to expand the target population eligible for CYFD referrals by addressing restrictive language in NMSA 1978, Section 33-9A-3(B), which currently limits services to “adjudicated delinquents.” However, the department does not report how many current children are served via the juvenile community corrections grant funds, nor how many more they estimate could be served if the funds uses were expanded. Approximately 100 juveniles were housed in juvenile justice facilities at the end of FY24.

CYFD states that this measure will allow more clients to receive services from Juvenile Community Correction (JCC) providers, and, without this measure “more JCC providers may be at risk of closing due to insufficient referrals.”

CYFD also notes no changes related to referrals of Delinquent Act offenses to Juvenile Justice Services. However, the bill would potentially increase some referrals to Juvenile Justice Community providers, allowing them to meet service delivery benchmarks and support clients.

Juvenile Justice Services Background. In 2006, New Mexico reached a settlement agreement aimed at improving juvenile justice in New Mexico. Subsequently, New Mexico implemented a series of evidence-based juvenile justice system reforms, including development and validation of risk and needs assessment tools to guide detention admission decisions and treatment decisions (at CYFD), improvement of behavioral health services, hiring of additional staff to diagnose and understand system trends, and using community-based alternatives to

confinement for lower risk cases. The system reforms, also referred to as the Cambiar model, emphasized rehabilitation over punishment and followed some best practices of similar reforms in the Missouri juvenile justice system.

Between FY08 and FY23, referrals to Juvenile Justice Services at CYFD, almost all from law enforcement because of a violation of the Delinquency Act, declined from nearly 24 thousand in FY08 to a low of less than 5,000 during the pandemic in FY21. The 2023 LFC progress report attributed this decline to a variety of factors, including a drop in the state's youth population and the state's reforms in juvenile justice. In FY22, referrals to Juvenile Justice Services began to increase.

In FY23, a total of 5,528 juveniles were referred to Juvenile Justice Services, an increase of 828 juveniles, but well below the 8,230 juveniles referred to JJS in FY19. Once referred to JJS, the case may either be handled informally (roughly 70 percent of cases in FY23) or formally through the filing of a petition in court (roughly 26 percent of cases in FY23). In FY23, the five most common offenses for delinquent referrals were battery, battery against a household member, possession of cannabis products, public fighting, and resisting or evading an officer.

As a result of the reforms and declines in juvenile justice system referrals, the population in secure facilities in New Mexico declined, and New Mexico closed two secure facilities and two reintegration centers. In addition, following over 15 years of a downward trend, the population in CYFD's secure juvenile justice facilities increased in FY24 and the beginning of FY25. In FY24, CYFD reports average daily census in the state's secure facilities averaged 96 young people, following a low of 80 in FY23, and average daily census exceeded 100 in the first quarter of FY25. While census in secure facilities has increased, the secure population remains below the overall capacity of the state's two operational secure facilities.

The 2023 LFC progress report on Juvenile Justice Services noted recidivism rates fell slightly among both youth discharged from field supervision and secure commitment declined between FY19 and FY22. Since the pandemic, New Mexico has experienced persistently high rates of certain types of crime, particularly in Bernalillo County, as documented in the 2024 LFC report *Update on Crime in New Mexico and Bernalillo County*. The report also noted an increase in certain types of juvenile crime, particularly in Bernalillo County. In 2023, the 2nd Judicial District Court reported 781 juvenile criminal cases, an increase of 38 percent relative to the prior year. Of those cases, 34 percent involved juveniles with firearms. The 2nd Judicial District Court has also reported an increased in homicides committed by juveniles since the pandemic.

Despite the uptick in referrals and specific offenses, CYFD's FY24 report card data indicates recidivism among youth released from field supervision improved compared to FY22 levels (86 percent did not recidivate within two years), though recidivism among youth released from secure facilities worsened (34 percent did not recidivate in two years).

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Sections of CS/HB255 related to extending juvenile sentences duplicate sections of House Bill 434 and conflict with House Bill 134 and Senate Bill 326 (companions), which amend Section 32A-2-19 to eliminate sentencing guidelines and allow for broad judicial sentencing discretion, among other broad changes to the Delinquency Act.

Sections of CS/HB255 related to the creation of the pilot program duplicate House Bill 404.

Relates to Senate Bill 509, which would establish a program to give all former foster \$2,000 one time, after they turn 18.

TECHNICAL ISSUES

The bill uses different terms and age ranges related to children and program eligibility, which, when taken together, may create technical conflicts.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

CYFD reported without this statute expanding the uses of the grant program fund, Juvenile Community Corrections providers may need to close due to insufficient numbers of referrals.

RMG/MF/rl/SL2/hj/SL2/sgs/SL2/sgs/hg/sgs