

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

FISCAL IMPACT REPORT

BILL NUMBER: House Bill 79

SHORT TITLE: Evidence In Probation Revocation

SPONSOR: Reeb

LAST ORIGINAL
UPDATE: _____ **DATE:** 02/05/2026 **ANALYST:** Sanchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
CYFD	No fiscal impact	At least \$4,000.0	At least \$4,000.0	At least \$8,000.0	Recurring	General Fund
Courts/DAs/LOPD	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
Total	No fiscal impact	At least \$4,000.0	At least \$4,000.0	At least \$8,000.0	Recurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency or Agencies Providing Analysis

Administrative Office of the Courts

Administrative Office of the District Attorneys

Office of the Attorney General

Law Offices of the Public Defender

Children, Youth and Families Department

SUMMARY

Synopsis of House Bill 79

House Bill 79 (HB79) seeks to amend Section 32A-2-24 NMSA 1978 of the Delinquency Act by changing the legal standard required for revocation of juvenile probation. This bill establishes that the standard of proof in such proceedings shall be a “preponderance of the evidence”. This is a lower threshold than the “beyond a reasonable doubt” standard used in the statute currently.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026.

FISCAL IMPLICATIONS

The bill does not contain an appropriation and would not, on its face, require direct state

expenditures. Several agencies report minimal or no immediate fiscal impact, noting that the change in the standard of proof would primarily require statutory updates and could modestly affect court operations by altering hearing practices or case-processing time. The Administrative Office of the Courts (AOC) and the Office of the Attorney General (NMAG) indicate any additional costs would likely be limited and absorbable within existing resources, although an increase in probation revocation hearings could incrementally affect judicial workload.

Other agency analyses identify potential indirect and longer-term fiscal implications that are more difficult to quantify. The Law Offices of the Public Defender (LOPD) report that lowering the evidentiary standard in juvenile probation revocation proceedings could result in an increase in the number of revocation filings pursued by prosecutors, which could increase defense workload and, depending on case volume, create pressure for additional indigent defense resources to maintain compliance with constitutional representation requirements. The magnitude of this impact cannot be reliably estimated in advance and would depend on changes in charging and revocation practices following implementation.

The Children, Youth and Families Department (CYFD) identifies the most significant potential fiscal exposure, noting that a lower standard of proof will increase probation violations, leading to placements in secure juvenile facilities. CYFD reports that it may be unable to absorb an expanded secure facility population with existing resources and provides historical cost estimates indicating that operating additional secure capacity could require several million dollars annually in recurring general fund expenditures. Overall, the fiscal impact of the bill is uncertain and would largely depend on how the revised standard of proof affects probation revocation rates, court dispositions, and resulting demands on juvenile justice and indigent defense systems.

SIGNIFICANT ISSUES

Lowering the standard of proof in juvenile probation revocation proceedings raises legal and policy considerations related to due process and the deprivation of liberty. Under current law, probation revocation in delinquency cases requires proof beyond a reasonable doubt, a standard traditionally associated with adjudications that may result in loss of liberty. By shifting to a preponderance-of-the-evidence standard—which merely requires demonstrating a claim is more likely true than not—the bill would allow courts to revoke probation and impose dispositions based on a lower evidentiary threshold, even though the potential consequences of revocation may include placement in a secure juvenile facility or a more restrictive disposition than was previously in effect. This change may prompt questions about the balance between supervisory flexibility and procedural protections in a system where revocation outcomes can significantly affect a child’s liberty interests.

The proposal also intersects with New Mexico’s longstanding approach of affording juveniles procedural protections comparable to, and in some respects greater than, those provided to adults in similar post-adjudicatory proceedings. Existing statutes and case law treat juvenile probation revocation proceedings as formal adjudicatory processes, with application of the rules of evidence and full confrontation rights. Introducing a lower burden of proof may require courts to reconcile this change with established legal principles governing juvenile proceedings and could lead to litigation clarifying how the revised standard operates in practice and how it interacts with existing precedent.

Additionally, the bill does not distinguish between technical probation violations and new law

violations, even though both may trigger revocation proceedings and result in similar dispositional consequences. Applying a uniform, lower standard of proof across all revocation cases may raise questions about proportionality and consistency, particularly when revocation decisions can effectively reset a juvenile's disposition without credit for time already served on probation. These issues may warrant consideration as the courts and agencies interpret and implement the revised statutory standard.

PERFORMANCE IMPLICATIONS

The bill could affect performance outcomes tracked by agencies involved in juvenile justice, particularly measures related to probation success, compliance, and placement in secure facilities. By lowering the standard of proof required to establish a probation violation, the bill may influence the rate at which violations are formally substantiated and resolved through revocation proceedings, which could, in turn, affect reported outcomes for probation completion and recidivism-related indicators. Changes in revocation practices could also affect how agency performance trends are interpreted over time, as shifts in violation or placement rates may reflect procedural changes rather than underlying changes in youth behavior or program effectiveness. To the extent probation revocation outcomes are used as indicators of supervision effectiveness or system performance, agencies may need to consider the revised evidentiary standard when evaluating results and comparing performance across fiscal years.

ADMINISTRATIVE IMPLICATIONS

Implementation of the bill would require administrative updates by affected agencies, including revisions to court forms, training materials, and internal guidance to reflect the revised statutory standard of proof in juvenile probation revocation proceedings. The Administrative Office of the Courts indicates that statutory changes typically require statewide communication and coordination to ensure consistent application by judges, court staff, and practitioners. Prosecutorial and defense agencies may need to adjust internal case screening, preparation, and litigation practices to reflect the revised evidentiary standard, which could affect case processing workflows without necessarily requiring formal rule changes. CYFD may also experience administrative effects related to probation supervision and coordination with the courts if revocation practices change following enactment. While agencies generally indicate these adjustments could be managed within existing structures, the bill may increase staff time demands for training, coordination, and case management during implementation.

TECHNICAL ISSUES

LOPD notes potential technical concerns regarding how the bill's proposed evidentiary standard interacts with existing statutes and case law. Specifically, the analysis observes that New Mexico appellate courts have described the burden of proof in adult probation revocation proceedings as requiring proof with "reasonable certainty," and the bill does not clarify whether "preponderance of the evidence" is intended to be equivalent to, higher than, or lower than that standard. Because New Mexico statutes do not otherwise use the preponderance standard in the probation revocation context, adoption of this language could require judicial interpretation to reconcile the new statutory text with existing precedent. The analysis further notes that the bill does not include conforming amendments to other provisions of the Children's Code or to the rules of procedure governing juvenile probation revocation proceedings, which could raise questions

about consistency and application until clarified through litigation or rulemaking.

SS/CM/ct/dw/ct