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## FISCAL IMPACT REPORT

**BILL NUMBER:** House Bill 202

**SHORT TITLE:** Child Advocate Office Data Sharing

**SPONSOR:** Dow/Armstrong

**LAST UPDATE:** \_\_\_\_\_ **ORIGINAL DATE:** 2/4/2026 **ANALYST:** Malone

### APPROPRIATION\* (dollars in thousands)

FY26	FY27	Recurring or Nonrecurring	Fund Affected
\$75.0	N/A	Nonrecurring	General fund

\*Amounts reflect most recent analysis of this legislation.

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

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
CYFD		\$367.0	\$809.0	\$1,985.0	Recurring	General fund
DolT		\$300.0-\$500.0	\$100.0-\$250.0	\$500.0-\$700.0	\$300.0-\$500.0 nonrecurring; \$100.0-\$200.0 recurring	
<b>Total</b>		<b>\$667.0-\$867.0</b>	<b>\$909.0-\$1059.0</b>	<b>\$2,485.0-\$2,685.0</b>	<b>Recurring &amp; nonrecurring</b>	<b>General fund</b>

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Agency or Agencies Providing Analysis

Children, Youth and Families Department

Administrative Office of the Courts

Health Care Authority

New Mexico Attorney General

Early Childhood Education and Care Department

Department of Information Technology

Department of Public Safety

#### Agency or Agencies That Were Asked for Analysis but did not Respond

Department of Health

Public Education Department

## SUMMARY

### Synopsis of House Bill 202

House Bill 202 (HB202) requires numerous state agencies to enter a multi-agency memorandum of understanding (MOU) with the Office of Child Advocate (OCA) for data-sharing and systems access. The bill names a total of seven agencies for involvement in the MOU: Administrative Office of the Courts (AOC), Children, Youth and Families Department (CYFD), Department of Health (DOH), Department of Public Safety (DPS), Early Childhood Education and Care Department (ECECD), Health Care Authority (HCA), and the Public Education Department (PED).

HB202 requires a working group composed of all the participating agencies, the New Mexico Attorney General (NMAG), and the Department of Information Technology (DoIT) convene by June 15, 2026. This group must finalize and execute the MOU by October 15, 2026.

The MOU must:

- Define the purpose and scope of data/system access;
- Identify specific data and access levels;
- Prescribe methods for sharing, storing, and securing data;
- Require audit logging for sensitive data, a breach response plan, and oversight and reporting mechanisms; and
- Ensure compliance with Health Insurance Portability and Accountability Act (HIPAA), Family Educational Rights and Privacy Act (FERPA), and court rules and cybersecurity standards.

The MOU must undergo legal and technical review by all parties and copies of the executed document must be submitted to key legislative and executive bodies by November 1, 2026.

The bill appropriates \$75 thousand from the general fund to OCA for FY26 and FY27 for technical services to implement the act.

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 appropriation of \$75 thousand contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY27 shall revert to the general fund.

HB202 does not contain an appropriation for agencies other than OCA to comply with the requirements of the bill. Most responding agencies, including AOC, NMAG, HCA, ECECD, and DPS, state there will be no direct fiscal impact to the agency despite potentially significant additional administrative burdens to negotiate and execute requirements of the MOU.

CYFD states the agency is unable to absorb the administrative requirements of the bill and will need four additional positions in FY27 and two additional positions and system costs in FY28 to

comply with HB202. The agency claims that additional needs include IT security review and configuration, identity and access management setup, audit logging and monitoring enhancements, legal and compliance review, staff time for working group participation, ongoing monitoring and reporting, and separate system costs and may include the implementation of additional technical controls, including role-based access controls, system modifications, or contracted technical services.

DoIT notes the execution of the requirements of HB202 would necessitate a new system to accommodate data-sharing across the executive and judicial branches of government. DoIT hosts a multi-tenant software environment for executive branch agencies. However, AOC, as part of the judicial branch of government, is not part of the DoIT multi-tenant environment. The agency estimates the needed system would likely cost between \$300 thousand and \$500 thousand to build and deploy, and that annual operational costs would likely be between \$100 thousand and \$250 thousand.

AOC notes there will be a minimal administrative cost for statewide update, distribution, and documentation of statutory changes and that any change in law could increase caseloads.

## **SIGNIFICANT ISSUES**

Legislation passed during the 2025 legislative session established OCA to provide oversight for New Mexico's child welfare system. The duties of OCA include review of CYFD services, receipt of complaints about CYFD, referral power to children and families in need of assistance, determination of the extent to which CYFD policies and procedures protect and enhance child wellbeing, monitoring implementation of state and federal laws and regulations concerning children and families, and the ability to access and review records necessary for any investigation, including the ability to subpoena witnesses.

Under Section 32A-30-6(A)(12) and (13) NMSA 1978, OCA is tasked with accessing and reviewing information and records necessary for effectuating its duties. Statute provides, “OCA shall ... access information or records that the department [CYFD] would be entitled to access or receive and that are necessary for carrying out the provisions of the Office of Child Advocate Act.” It further provides, “OCA shall ... access and review information, records or documents that the department [CYFD] would be entitled to access or receive, including records of third parties, that the office [OCA] deems necessary to conduct a thorough and independent review of a complaint.”

As NMAG notes, HB202 can be viewed as a proactive mechanism to facilitate, streamline, and address any disagreements related to appropriate systems access and data-sharing parameters between OCA and state agencies maintaining relevant records. NMAG observes CYFD has previously objected to sharing certain information based on the Abuse and Neglect Act's confidentiality requirements, Section 32A-4-33(G)(20) NMSA 1978, and the MOU requirements of HB202 may prevent similar objections in the future. In addition, HB202 will further facilitate OCA access to information held by other agencies that may be relevant to its work.

Several responding agencies note the MOU timeline required by HB202 is not likely to be achievable given the need to coordinate across such a large number of agencies. For example, DoIT states the timeline does not allow for adequate time to address complicated issues related to data governance, data management, security, privacy protection, and separation of powers that

are implicated by the MOU proposal. The uniform crime reporting system, HIPAA, FERPA, and court rules, all impose strict limitations on the sharing of this data. Reconciling all those limitations to allow the type of data-sharing required by this legislation would further complicate the data governance, data classification, and data security standards and controls that would need to be developed and implemented. To ensure compliance with the federal laws governing this data, relevant federal authorities would also have to review and approve the data sharing agreement and system prior to implementation, potentially causing delay and increasing costs. DoIT anticipates that creating a sharing system to manage data with varying layers of regulatory and privacy requirements may be a very complicated endeavor and suggests the feasibility and cost of such an effort would have to be studied before the working group could execute the MOU.

Although agencies anticipate significant effort and agency resources would need to be devoted to the development of the MOU and subsequent system, numerous data-sharing agreements and systems exist throughout state government. For example, AOC notes that the agency maintains a somewhat similar data-sharing MOU with CYFD and the Office of Family Representation and Advocacy (OFRA), that AOC and CYFD have collaborated on automated data exchanges for the new NM Impact system, and that statute already sets out a uniform case numbering system used between CYFD, DPS, DOH, PED, the Supreme Court, and the district attorneys.

## **ADMINISTRATIVE IMPLICATIONS**

Nearly all responding agencies note that HB202 would require significant time and coordination to execute and is likely to be administratively demanding, particularly given the timeline included in the bill.

## **OTHER SUBSTANTIVE ISSUES**

Multiple agencies note the bill does not define the level or type of system access (e.g., read-only, limited module access, or broader credential-based access) and determination will significantly affect implementation complexity, risk exposure, and compliance with federal restrictions on data access.

DPS notes HB202 does not contain a dispute resolution mechanism if MOU parties disagree on terms, an enforcement consequence if the MOU is not executed by the statutory deadline, and does not specify which court rules (e.g. Children's Court Rules) apply. DPS also states the agency believes this bill would help agencies work more closely with OCA and that it puts strong safeguards in place to protect sensitive information.

ECECD notes HB202 requires state agencies to do something the agencies are already empowered to do and restricts agencies' discretion to manage interagency coordination. ECECD states the agency does not believe that a statutory mandate is necessary to accomplish the goals of HB202.

CYFD requests a number of amendments be made to HB202, including requiring the minimum level of system access necessary for OCA to fulfill statutory duties, using data exchange rather than system access when feasible, specifying security controls for system access, requiring DoIT review of technical architecture and security controls prior to implementation, providing

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additional funding for participating agencies, and clarifying access to criminal justice information.

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