

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number:** SB 99a

**50th Legislature, 1st Session, 2011**

**Tracking Number:** .183759.1

**Short Title:** Damage Awards for Children Damaging Property

**Sponsor(s):** Senator Sander Rue

**Analyst:** Kevin Force

**Date:** March 31, 2011

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**AS AMENDED**

**The Senate Public Affairs Committee amends lower the maximum amount of monetary damages that might be awarded under the bill from \$10,000 to \$7,500.**

**Original Bill Summary:**

SB 99 amends the *Delinquency Act* in the *Children's Code* regarding damages that may be recovered from the parents of a child who has willfully harmed a person or damaged property. Specifically, the bill raises the limit of such damages from \$4,000 to \$10,000. Further, the bill allows the court to order the offending child to perform community service, notwithstanding any monetary damages also awarded for the offense.

**Fiscal Impact:**

SB 99 does not contain an appropriation.

**Fiscal Issues:**

The analyses of SB 99 by legal and judicial agencies raise the possibility of increased costs:

- According to the Administrative Office of the District Attorney:
  - the number of cases filed in civil court might increase slightly as a result of the higher maximum allowable damages implicated by the bill; and
  - if there is such an increase in civil litigation, it would impact New Mexico's already overburdened magistrate and metropolitan courts.
- The Public Defenders Department notes that:
  - the bill only affects civil lawsuits between plaintiffs and parents of delinquent children; and
  - the only fiscal implication for New Mexico might arise from the slightly increased incentive for these lawsuits, which would affect the judiciary, especially magistrate courts.

- According to the Administrative Office of the Courts:
  - distribution and documentation of statutory changes create minimal administrative costs; and
  - new laws and amendments to existing laws might increase caseloads in the courts, necessitating additional resources.

**Technical Issues:**

The analysis by the Children Youth and Families Department (CYFD) notes that the provision granting the court discretion to order the child to perform community service regardless of whether monetary damages are awarded may be redundant. That is, under the *Delinquency Act*, the definition of “restitution” means financial reimbursement or *community service* imposed by the court (emphasis CYFD’s); therefore, the consequence of community service is already contemplated by the act.

**Substantive Issues:**

According to CYFD:

- many families whose children are involved in the juvenile justice system receive public assistance and cannot afford to pay restitution;
- courts frequently order community service hours, rather than reimbursement to victims;
- when matters implicating higher dollar amounts are identified, deductibles are usually ordered to cover actual costs to property, usually in amounts ranging from \$250 to \$1000; and
- in light of the public assistance status of many of the families likely to be involved in these actions, increasing the statutorily recoverable amounts for civil actions:
  - may not lead to any actual increase in recovered damages; and
  - may actually exacerbate these families’ economic situations that may have contributed to the delinquency of the youth in the first place.