

<b>LFC Requester:</b>	<b>Sanchez</b>
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**AGENCY BILL ANALYSIS - 2026 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**

**[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)**

*(Analysis must be uploaded as a PDF)*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** 1/30/26 *Check all that apply:*  
**Bill Number:** HB79 Original  Correction   
 Amendment  Substitute

**Sponsor:** Andrea Reeb **Agency Name and Code** AOC 218  
**Short Title:** Evidence In Probation **Number:** \_\_\_\_\_  
Revocation **Person Writing** Alison B. Pauk  
**Title:** \_\_\_\_\_ **Phone:** 505-470-6558 **Email** aocabp@nmcourts.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis ( ) indicate revenue decreases)

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

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

##### Synopsis:

HB79 proposes to amend NMSA 1978, section 32A-2-24, to change the standard of proof in juvenile probation revocation proceedings from the current requirement of proof beyond a reasonable doubt to proof by a preponderance of evidence.

#### **FISCAL IMPLICATIONS**

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. New laws, amendments to existing laws and new hearings have the potential to increase court hearing time, thus requiring additional resources to handle the increase.

#### **SIGNIFICANT ISSUES**

House Bill 79 changes the burden of proof in a juvenile probation violation case from “beyond a reasonable doubt” to a “preponderance of the evidence.” The standard of proof is not commonly stated in New Mexico statutes. For example, in adult criminal cases in New Mexico, the standard of proof for probation violations is not set in statute but rather found in case law.

In regards to sentencing in adult criminal cases in NM, an adult is sentenced to a certain period of time that may be suspended if the adult completes probation. If the adult violates probation, Section 31-21-15(B) NMSA 1978 provides the following instructions to the court, and states:

The court shall then hold a hearing, which may be informal, on the violation charged. If the violation is established, the court may continue the original probation or revoke the probation and either order a new probation with any condition provided for in Section 31-20-5 or 31-20-6 NMSA 1978 or require the probationer to serve the balance of the sentence imposed or any lesser sentence. If imposition of sentence was deferred, the court may impose any sentence that might originally have been imposed, but credit shall be given for time served on probation.

Although an adult might not get credit for any absconder time, no additional time may be added to that original sentence. In contrast, a juvenile who is found to be in violation of probation or a consent decree may receive any disposition “that would have been appropriate in the original disposition of the case.” See Section 32A-22(D)(2) and 32A-2-24(B) NMSA 1978. Additionally, no credit is given for the time the child has already served on probation. For example, a child commits petty misdemeanor shoplifting (stealing less than \$250 worth of items) and receives a disposition of a one-year term of probation. If the child violates that term of probation after eleven months of being on probation, the child could start over with another one-year term of probation, could receive a two-year term of probation, or could even get a two-year commitment. If the child were an adult, the worst sentence that adult could receive for petty misdemeanor

shoplifting is up to six months in jail and would receive credit for any time already spent on probation. Therefore, for violations of probation in delinquency cases, a child is exposed to the same dispositional options available at the original proceeding, with no credit for any time the child already served on probation. The drafters of the original Children's Code likely recognized this, thus specifically included a standard of proof for probation violations that is equal to that of the original case.

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

## **AMENDMENTS**