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**AGENCY BILL ANALYSIS – 2026 SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**  
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**SECTION I: GENERAL INFORMATION**

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

**Date Prepared:** 01/28/2026 *Check all that apply:*  
**Bill Number:** HB 182 Original  Correction   
 Amendment  Substitute

**Sponsor:** Rep. Martin R. Zamora **Agency Name and Code:** 790 – Department of Public Safety  
**Short:** VIOLATION OF CURFEW AS DELINQUENT ACT **Person Writing:** Major Robert Alguire  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
NA	NA	NA	NA

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
NA	NA	NA	NA	NA

(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>	NA	NA	NA	NA	NA	NA

(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**

HB-182 amends the New Mexico Delinquency Act to provide that a juvenile's violation of a county or municipal curfew ordinance constitutes a "delinquent act." By adding curfew violations to the statutory definition of delinquency, the bill allows youth who break local curfew rules to be referred into the juvenile justice system and potentially subject to juvenile court proceedings and sanctions. This change elevates curfew violations from a local ordinance matter to an offense treated under state delinquency law. While HB182 may appear to amend language relating to a child trying to buy or being served liquor or being present in a bar, it is actually just moving that language to a different part of the same statute while leaving the language intact.

### **FISCAL IMPLICATIONS**

No fiscal impact to DPS.

### **SIGNIFICANT ISSUES**

1. Addresses State Preemption Doctrine: In *ACLU v. City of Albuquerque*, 1999-NMSC-044, 128 N.M. 315, the New Mexico Supreme Court held that the Children's Code preempts municipalities from enacting curfew ordinances that impose criminal sanctions for juvenile activity that is not unlawful when committed by adults. The Court reasoned that allowing municipalities to "criminalize the otherwise lawful behavior of children remaining on public streets during curfew hours" would "circumvent and thereby frustrate the Legislature's intent to protect children and uniformly enforce laws of a penal nature against them." HB 182 directly addresses this preemption by amending the statutory definition of "delinquent act" in Section 32A-2-3 NMSA 1978 to include curfew violations. By making curfew violations a delinquent act under state law, the bill would provide the statutory foundation that was lacking in *ACLU*.

2. Federal Constitutional Concerns Remain: While HB 182 addresses the state preemption issue, significant federal constitutional vulnerabilities remain. Federal courts have applied strict scrutiny to juvenile curfew laws when they implicate fundamental rights, including the First Amendment rights to free speech and assembly, the Fourteenth Amendment rights to equal protection and due process, and parental rights to direct the upbringing of children. *See Nunez v. City of San Diego*, 114 F.3d 945 (9th Cir. 1997) (striking down curfew as not narrowly tailored). Courts have required that curfew ordinances include adequate exceptions for First Amendment activities, work, emergencies, and parental accompaniment to survive constitutional scrutiny. *See Qutb v. Strauss*, 11 F.3d 488 (5th Cir. 1993) (upholding Dallas curfew with numerous exceptions). HB 182 does not mandate these exceptions; rather, it incorporates local ordinances by reference without establishing constitutional safeguards.

3. Vagueness Risk: The bill incorporates local curfew ordinances by reference without establishing minimum content requirements. Courts have struck down curfew ordinances as void for vagueness when they fail to define the offense with sufficient clarity for ordinary people to understand what conduct is prohibited. *See City of Sumner v. Walsh*, 148 Wash.2d 490 (2003) (striking ordinance for failing to properly define exemptions); *Naprstek v. City of Norwich*, 545 F.2d 815 (2d Cir. 1976) (ordinance void for not specifying ending time). Each local ordinance will face independent constitutional scrutiny, creating patchwork enforcement across the state.

### **PERFORMANCE IMPLICATIONS**

No performance implications for DPS.

### **ADMINISTRATIVE IMPLICATIONS**

No administrative implications to DPS.

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

Similar to 2017 HB-53, 2011 HB-254, 2002 HB-406.

## **TECHNICAL ISSUES**

1. No Minimum Constitutional Safeguards: The bill does not require local curfew ordinances to include exceptions that federal courts have identified as constitutionally necessary, including: (a) First Amendment activities (speech, assembly, religion); (b) emergency situations; (c) parental accompaniment or permission; (d) work-related activities; (e) travel to and from school functions. *See Quib v. Strauss*, 11 F.3d 488 (5th Cir. 1993). Without such requirements, individual ordinances remain vulnerable to constitutional challenge.
2. Enforcement Procedures Unclear: The bill adds curfew violations to the “delinquent act” definition but does not address enforcement procedures. Questions remain regarding: (a) whether citation, arrest, or custody is authorized upon a violation; (b) referral procedures to juvenile probation; (c) notice requirements to parents; and (d) interaction with existing custody provisions of Section 32A-2-9 NMSA 1978.
3. Age Definition Not Specified: The bill applies to violations of curfew ordinances but does not define what ages local ordinances may cover. The Delinquency Act applies to “children,” defined as individuals under 18 years of age under Section 32A-1-4 NMSA 1978. Local ordinances could potentially set different age thresholds, creating statutory inconsistency.

## **OTHER SUBSTANTIVE ISSUES**

1. Policy Rationale: Proponents of juvenile curfews argue they reduce juvenile crime and victimization by keeping minors off streets during high-crime hours. However, the U.S. Department of Justice has noted that rigorous program evaluations of curfew effectiveness are limited, and research has produced mixed results on their impact on juvenile crime reduction.
2. Inconsistent Treatment of Status Offenses: Under current New Mexico law, status offenses (conduct that is only unlawful due to the individual’s age) are generally handled through the Family in Need of Services (FINS) framework rather than delinquency proceedings. HB 182 would treat curfew violations — which are inherently status offenses — as delinquent acts, departing from the statutory distinction between delinquent conduct and status offenses.
3. Impact on Juvenile Justice System: Adding curfew violations as delinquent acts could increase referrals to juvenile probation and court resources. The bill could impact juvenile detention facilities and court caseloads depending on how aggressively localities choose to enforce curfew ordinances.

## **ALTERNATIVES**

1. The Legislature could consider adding minimum constitutional safeguards that local curfew ordinances must include to ensure compliance with federal constitutional requirements, such as mandatory exceptions for First Amendment activities, work, emergencies, and parental accompaniment.
2. As an alternative to treating curfew violations as delinquent acts, the Legislature could amend the Family in Need of Services Act to address chronic curfew violations through the FINS framework, which is designed to address status offenses without the formal delinquency adjudication process.

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

Status quo will remain. Under current law, municipal and county curfew ordinances remain preempted by the Children's Code per *ACLU v. City of Albuquerque*, 1999-NMSC-044. Local jurisdictions cannot effectively enforce juvenile curfews through the juvenile justice system without statutory authorization. Some municipalities, such as Deming, have recently enacted curfew ordinances notwithstanding the preemption concerns, potentially exposing those localities to constitutional challenge.

## **AMENDMENTS**

DPS suggests the following amendments be considered to strengthen the bill against constitutional challenge:

1. Add a provision requiring local curfew ordinances to include exceptions for: (a) First Amendment activities; (b) employment; (c) emergencies; (d) parental accompaniment; and (e) school-related activities.
2. Add a provision specifying enforcement procedures, including parental notification requirements and referral protocols to juvenile probation.
3. Add a provision prohibiting detention of juveniles solely for curfew violations, consistent with federal Juvenile Justice and Delinquency Prevention Act requirements regarding status offenders.