

LFC Requester:

Carlie Malone

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

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: HB 202

Original Correction
Amendment Substitute

Sponsor: Representatives Rebecca Dow & Gail Armstrong

Agency Name and Code Number: 305 – New Mexico Department of Justice

Short Title: Child Advocate Office Data Sharing

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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

Total						
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(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: HB202 requires multiple state agencies to enter into a single memorandum of understanding (MOU) with the Office of the Child Advocate (OCA) to share data and system access for child welfare purposes, establish security and compliance protocols, and provides funding for technical implementation.

Section 1 outlines the purpose of the multi-agency MOU, namely to enable data sharing and system access between the OCA and seven enumerated state entities, including: Administrative Office of the Courts; Children, Youth and Families Department (CYFD); Department of Health; Department of Public Safety; Early Childhood Education and Care Department; Healthcare Authority; and the Public Education Department.

Section 1 establishes a working group to develop the MOU which is to convene by June 15, 2026. This working group would be chaired by a representative from the OCA, and include representatives from the Department of Information Technology, the Attorney General (New Mexico Department of Justice), and the agencies who are parties to the MOU. The MOU must be finalized and executed by October 15, 2026.

Section 1(D) includes nine topics that must be included within the MOU, covering areas such as: specific data and access levels; procedures for sharing, storing, and securing data; audit logs and breach response plans; compliance with applicable federal laws (HIPAA, FERPA) and other cybersecurity standards; oversight and reporting; and legal/technical soundness. Copies of the executed MOU are to be sent to the Governor, Legislative Finance Committee (LFC) and the Legislative Health and Human Services Committee by November 1, 2026.

Section 2 allocates \$75,000 from the general fund to the Office of Child Advocate for fiscal years 2026 and 2027 to cover technical services required for implementing the Act.

FISCAL IMPLICATIONS

None for the NMDOJ.

SIGNIFICANT ISSUES

In Subsection 1(D), the MOU may include agency-specific appendices as appropriate to address confidentiality requirements. As CYFD often over relies on the Abuse and Neglect Act’s confidentiality statute to withhold information, it is particularly important to agree on the contours of CYFD’s assumed confidentiality limitations in advance of the child advocate seeking child abuse and neglect information. Of note, both the Attorney General and OCA are exempt from traditional confidentiality limitations under the Abuse and Neglect Act. *See* NMSA 1978, § 32A-4-33(G)(20), stating that records related to abuse and neglect investigations and proceedings

shall be disclosed without redaction to...“the attorney general and the office of child advocate and its employees and contractors, pursuant to the requirements of the Office of Child Act...if the records are needed for the purpose of implementing that act.”

HB 202 requires development of an MOU to outline the OCAs access to vital systems and records necessary to carry out its statutory obligations in NMSA 1978, § 32A-30-6(A)(1) - (14). Note that under § 32A-30-6(A)(12) and (13), the OCA is tasked with accessing and reviewing information and records necessary for effectuating its duties. *See* Subsection 6(A)(12) (“The 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”), and Subsection 6(A)(13) (“The 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.”) HB 202 can be viewed as a mechanism to facilitate, streamline, and address any disagreements early related to appropriate systems access and data sharing parameters between the OCA and state agencies maintaining relevant records.

PERFORMANCE IMPLICATIONS

The absence of an MOU to facilitate system access and data sharing may impede fulfillment of the OCAs duties, notably the requirement that certain information be referred to the Attorney General. *See* § 32A-30-6(A)(14): “The OCA shall refer any finding of a violation of federal or state constitutional rights, reckless disregard for the health and safety of a child or a pattern of conduct or repeated incidents of violating laws and rules relating to child and family welfare to the attorney general.”

ADMINISTRATIVE IMPLICATIONS

The bill requires the New Mexico Department of Justice to designate a representative to participate in the working group responsible for drafting the MOU.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

While there do not appear to be any bills directly related to the OCA, two bills impact the operations of CYFD, which is the primary entity that would be required to share data and system access with the OCA. These bills are:

- HB 86 – Proposes creation of an independent CYFD commission to set policy and oversee the operations of CYFD, including appointing a superintendent and directing departmental functions.
- SB 56 – Proposes creation of the Child Welfare Authority as an independent state agency governed by a board of regents to take over child welfare and juvenile justice functions from CYFD.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

HB 202 recognizes the complexity of integrating the OCA with multiple agency IT platforms that have distinct architectures and security standards. To avoid delays or failures, any MOU developed under this bill must include precise technical specifications and interoperability

standards. As chair of the working group, the child advocate should promptly plan for its own internal systems and ensure they can interface effectively with other agencies. Because the OCA operates independently of the New Mexico Department of Justice under NMSA 1978, § 9-1-7(A)(1), it will need time after its launch to select and implement technology that aligns with other agencies' existing systems. Poorly managed integration could lead to operational disruptions and undermine the data-sharing objectives of HB 202 and the overarching goals of the Office of Child Advocate Act, NMSA 1978, § 32A-30-1 to -15.

In Section 1(D)(9), the MOU is to be “reviewed for legal and technical soundness” by each party. It is possible that there would be disputes between parties (for example, regarding the appropriate parameters of confidentiality provisions), and the bill does not specify a mechanism for resolving disagreements about legal sufficiency.

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The OCA will be required to fulfill its duties under NMSA 1978, § 32A-30-6(A)(1) - (14) without the benefit of a MOU to facilitate the sharing of, and access to, necessary data and child welfare information.

AMENDMENTS

N/A