

<b>LFC Requester:</b>	<b>Carlie Malone</b>
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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:** 04FEB26 *Check all that apply:*  
**Bill Number:** HB202 Original  Correction   
 Amendment  Substitute

**Sponsor:** Rep. Rebecca Dow, Rep. Gail Armstrong **Agency Name and Code Number:** 790 – Department of Public Safety  
**Short Title:** Child Advocate Office Data **Person Writing:** Matthew Broom, Deputy Chief  
**Title:** Sharing **Phone:** 5757601485 **Email:** Matthew.broom@dps.nm.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
NFI	NFI	N/A	N/A

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
NFI	NFI	NFI	N/A	N/A

(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>	NFI	NFI	NFI	N/A	N/A	N/A

(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**

House Bill 202 (HB202) directs the Department of Information Technology, the Attorney General, the Office of Child Advocate, and seven listed state agencies to enter into a multi-agency memorandum of understanding to share agency data and systems access with the Office of Child Advocate. Appropriates \$75,000 (GF) to the Office of Child Advocate for use in FY2027 to obtain technical services for this sharing of data and access.

### **FISCAL IMPLICATIONS**

No fiscal impact to DPS.

### **SIGNIFICANT ISSUES**

The Department of Public Safety (DPS) serves as the states Criminal Justice Information Services (CJIS) Systems Agency and is responsible for controlling and safeguarding all criminal justice information (CJI) in New Mexico. Access to CJI is governed by the FBI CJIS Security Policy (v6.0, Dec. 2024), which strictly limits access to criminal justice agencies performing criminal justice functions. See CJISSECPOL v6.0, §§ 3.2, 3.2.5, 5.1, and CA-3; 28 C.F.R. Part 20. Under 28 C.F.R. § 20.33(a)(7), noncriminal justice agencies (NCJAs) may access CJI only through management control agreements with criminal justice agencies, subject to fingerprint-based personnel screening, CJIS Security Addendum execution, and audit requirements.

The bill requires multiple agencies to share data and provide system access to the Office of the Child Advocate (OCA). The OCA was created by HB 5 (2025 Session), the Office of Child Advocate Act, effective July 1, 2025, and is administratively attached to the NM Department of Justice pursuant to § 9-1-7 NMSA 1978. The OCA is not itself a criminal justice agency. Several of the agencies listed in the bill are non-criminal justice agencies, including:

1. Department of Health
2. Health Care Authority
3. Public Education Department

Under federal CJIS policy, non-criminal justice agencies are not permitted to access criminal justice information, even if a state law or memorandum of understanding (MOU) attempts to authorize it. An MOU cannot override federal CJIS restrictions. See CJISSECPOL v6.0, § 5.1 and CA-3 (Information Exchange). Additionally, New Mexico is a party state to the National Crime Prevention and Privacy Compact, 34 U.S.C. § 40316, which prohibits direct access to the National Identification Index by entities other than the FBI and state criminal history record repositories for noncriminal justice purposes. 34 U.S.C. § 40316, Art. IV(c).

A state-law MOU cannot override these federal CJIS restrictions or Compact obligations. Any data sharing authorized under HB 202 must independently satisfy federal requirements for NCJA access to CJI. The bill does not clearly specify:

1. What exact data must be shared
2. Which systems would be accessed
3. Whether the required data includes criminal justice information

Without these clarifications, the bill risks:

1. Requiring data sharing that is not legally permissible under federal CJIS rules
2. Placing the state out of compliance with FBI security policy
3. The National Crime Prevention and Privacy Compact
4. Jeopardizing statewide access to FBI criminal justice systems

## **PERFORMANCE IMPLICATIONS**

Expanding the number of agencies and personnel with access to sensitive data inherently increases the attack surface for data breaches and unauthorized disclosure. Under the CJIS Security Policy, any security incident involving CJI must be reported to DPS as the CSA and to the FBI CJIS Division ISO. The bill's audit logging requirement (Section 1(D)(5)) and breach plan requirement (Section 1(D)(6)) are positive but must be reconciled with DPS's existing CJIS incident response obligations.

This could lead to:

1. Information being shared with people who are not allowed to see it
2. Data being misunderstood or used incorrectly
3. Violations of federal or state security rules that could affect DPS systems

If there is a breach involving child-related or criminal justice data, it could cause:

1. Legal problems for the state
2. Disruptions to public safety systems
3. Damage to the state's reputation and public trust

## **ADMINISTRATIVE IMPLICATIONS**

The New Mexico Department of Public Safety (NMDPS) is the state agency responsible for protecting and controlling access to criminal justice data. Under this bill, NMDPS would have to work with several other agencies to create a statewide agreement for sharing data and system access.

This would mean NMDPS would have to:

1. Carefully review what information each agency wants to share
2. Make sure no one is given access to criminal justice data they are not legally allowed to see
3. Help write and review the agreement to ensure it follows federal rules
4. Attend meetings and coordinate with multiple agencies and legal teams

The bill would also create more day-to-day work for NMDPS, such as:

1. Reviewing requests for data access
2. Updating policies and security procedures
3. Monitoring how the shared data is used
4. Handling audits, reports, and compliance checks

If the bill requires something that violates federal rules, NMDPS would have to:

1. Block or limit access to certain data
2. Work with other agencies to find a legal way to meet the bills goals

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

The bill may conflict with federal FBI CJIS Security Policy (v6.0, Dec. 2024), 28 C.F.R. Part 20, and the National Crime Prevention and Privacy Compact, 34 U.S.C. § 40316, if interpreted to require sharing of CJI with noncriminal justice agencies without independent compliance with federal access requirements.

## **TECHNICAL ISSUES**

The bill requires sharing of "certain agency data" and access to "certain agency systems" (Section 1(B), (D)(1)) but does not specify which datasets or systems, delegating all such details to the MOU working group. For DPS, this is significant because DPS manages systems (e.g., NCIC terminals, III access, state criminal history repository) subject to strict federal access controls. It does not clearly say which computer systems or types of data must be shared, which makes it hard for agencies to know how to carry it out. It also does not address important confidentiality laws and rules, including:

1. Federal CJIS Security Policy requirements for criminal justice data.
2. The distinction between UCR/statistical data (generally shareable) and CJI/criminal history records (subject to FBI CJIS Security Policy and 28 C.F.R. Part 20 restrictions). Section 1(D)(8)(a) references compliance with the "uniform crime reporting system," but this is not the same as CJI, and conflating

the two could lead to misapplication of compliance requirements.

Additionally, the bill contains no dispute resolution mechanism if MOU parties disagree on terms, and no enforcement consequence if the MOU is not executed by the October 15, 2026 deadline (Section 1(C)(3)). The reference to “limitations consistent with court rules” (Section 1(D)(8)(d)) does not specify which court rules apply, though it likely refers to Children’s Court Rules governing confidentiality of abuse and neglect proceedings. Without clearer direction, agencies could be put in a position where they cannot follow the bill without violating federal or state law.

#### **OTHER SUBSTANTIVE ISSUES –**

DPS believes this bill will help agencies work more closely with the Office of Child Advocate by creating a single agreement that clearly outlines what information can be shared, how it is shared, and who can access it. By streamlining this process, the bill aims to close gaps between separate systems and make it easier to spot concerns and trends affecting child safety and well-being.

The bill also puts strong safeguards in place to protect sensitive information—like limiting access, monitoring system use, and following state and federal privacy laws. It calls for oversight and regular reporting to maintain transparency and accountability and sets aside modest funding for technical support. In short, HB-202 encourages better collaboration among state agencies while carefully balancing privacy, security, and oversight.

The bill’s intent to improve child advocacy outcomes is aligned with broader state goals, but implementation requires careful balancing of privacy, security, and legal constraints.

#### **ALTERNATIVES**

Not applicable as no impact to DPS.

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

Status quo will remain.

#### **AMENDMENTS**

None at this time.