

LFC Requester:	
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**AGENCY BILL ANALYSIS
2026 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

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{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}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date 2/2/2026
Bill No: HB 218-280

Sponsor: Luis Terrazas/Gabriel Ramos
Short Title: Attendance for Success Act Enforcement

Agency Name and Code LOPD-280
Number: _____
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(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:

If enacted, HB 218 would reinstate a criminal prosecution mechanism for parents in cases of excessive student absenteeism that was removed when the Legislature enacted the Attendance for Success Act in 2019.

Prior to 2019, New Mexico law (§ 22-12-1 et seq) authorized referral of parents to the district attorney and prosecution for a petty misdemeanor when a parent knowingly allowed a child’s continued nonattendance. That prosecution provision was repealed as part of the 2019 overhaul of the state’s attendance laws, which replaced the former Compulsory School Attendance framework with a service-oriented intervention model centered on referral to juvenile probation services and family support.

HB 218 would amend Section 22-12A-12 NMSA 1978 (Excessive Absenteeism—Enforcement) to:

- Reinstated criminal liability for a parent of an excessively absent student who “cause[s] or allow[s]” the student to continue to be absent after referral to juvenile probation services;
- Require the local school board or governing body, after consultation with the superintendent or head administrator, to refer the parent to the district attorney for prosecution;
- Establish a petty misdemeanor offense for a first conviction, punishable by a fine of \$50–\$100 or community service;
- Authorize enhanced penalties for subsequent convictions, including a fine up to \$500 and/or imprisonment for up to six months;
- Clarify and expand enforcement procedures applicable to local school boards and governing bodies of charter schools and private schools; and
- Modify language governing referral timelines and documentation provided to juvenile probation services.

Under current law, excessive absenteeism results in referral to juvenile probation services for investigation and potential family services intervention, but does not create standalone criminal liability for parents.

If enacted, HB 218 would shift the Attendance for Success Act from a primarily service-based intervention framework to one that includes criminal prosecution of parents and would apply that

enforcement structure across public school districts, charter schools, and private schools subject to the Act.

FISCAL IMPLICATIONS

LOPD does not anticipate a significant increase in prosecutions as a result of reinstating parents' criminal liability for truancy. However, because truancy disproportionately impacts low-income families, enforcement is likely to fall heavily on indigent parents in particular, increasing public defender workload.

LOPD may be able to absorb some additional workload associated with this proposal. But even incremental increases—when combined with the cumulative effect of other criminal legislation—create a corresponding need for additional indigent defense resources to ensure continued compliance with constitutional mandates.

Absent some offsetting reduction in indigent defense workload, any increase in prosecutions would likely require additional indigent defense funding to prevent existing capacity constraints from worsening. The precise fiscal impact cannot be predicted in advance; the need for resources would have to be evaluated after implementation and based on actual charging and litigation patterns. Given current budget limitations, LOPD remains concerned about the cumulative effect of new offenses and enhanced penalties on overall caseloads and system strain.

SIGNIFICANT ISSUES

If enacted, HB 218 would reinstate criminal prosecution of parents as a response to excessive absenteeism and would move New Mexico's attendance framework in the wrong direction. The current Attendance for Success Act reflects a deliberate shift away from punitive enforcement and toward intervention and support. Under the current model, when unexcused absences continue after notice, the law contemplates referral to juvenile probation services for investigation and, where appropriate, family services engagement and additional interventions designed to improve attendance. HB 218 would reverse that approach by creating a new petty misdemeanor offense for a parent who "cause[s] or allow[s]" continued absences after a juvenile probation referral and by requiring referral of the parent to the district attorney for prosecution, with escalating penalties that include the possibility of jail time for subsequent convictions.

This criminalization is misguided because chronic absenteeism is widely understood as a signal that a family needs help, not punishment. Excessive absences are often driven by barriers that the criminal legal system cannot fix—poverty, unstable housing, lack of transportation, disability-related needs, mental health crises, family caregiving responsibilities, or school climate and safety concerns. And, research consistently shows that chronic absenteeism and school discipline enforcement disproportionately affect Black, Hispanic, Indigenous, and low-income students. See e.g. <https://journals.sagepub.com/doi/abs/10.1177/0011128719847456>

Using prosecution to respond to those circumstances is counterproductive: fines make financial instability worse, and incarceration destabilizes families, interrupts employment, and can increase the very stressors that interfere with school attendance. A parent facing prosecution is also less likely to engage openly with school personnel or seek supports, undermining the collaborative intervention model that attendance improvement depends on. In other words, the bill risks turning a request for assistance into a criminal case, increasing system involvement without improving attendance.

HB 218's scope makes these harms broader. The bill would apply the amended enforcement provisions not only to local school boards but also to charter schools and private schools subject to the Act. Extending criminal enforcement into the private-school context raises serious policy concerns. Private schools may have different attendance policies, different resources for intervention, and different documentation practices, yet HB 218 would place families in jeopardy of prosecution based on those institutional processes. More generally, authorizing criminal referrals across public, charter, and private schools increases the risk of inconsistent enforcement and uneven outcomes depending on where a child is enrolled and how a given school documents "interventions" and "responses."

Finally, the bill's "cause or allow" formulation magnifies the risk of unfair prosecutions. Absenteeism may continue for reasons beyond a parent's practical control, particularly with older students, students with disabilities, or families managing unstable housing, employment demands, or health crises. The bill does not require proof of willful refusal to comply; it criminalizes continued absence after referral. That structure invites prosecution of families already experiencing hardship, deepens inequities, and expands the school-to-court pipeline. New Mexico was moving in the right direction by eliminating parent prosecution as an attendance tool and centering services and interventions instead. HB 218 would reverse that progress by reintroducing criminal punishment into a problem that calls for support.

It is possible that renewed interest in enforcement mechanisms is driven in part by post-pandemic increases in chronic absenteeism. Following COVID-19 school disruptions, districts nationwide have reported elevated absence rates tied to technology gaps, housing instability, transportation challenges, student mental health concerns, and family caregiving responsibilities. However, available reporting and research do not demonstrate that criminal prosecution of parents improves attendance outcomes.

National coverage of truancy enforcement during and after the pandemic documented instances in which families were fined or taken to court despite absences stemming from remote-learning barriers, health concerns, or lack of reliable internet access. In those cases, punitive measures did not resolve the underlying causes of absenteeism and, in some instances, compounded financial hardship and distrust between families and schools. Experts cited in that reporting cautioned that court-based enforcement funnels families into the justice system without addressing structural barriers to attendance.

More broadly, research and attendance policy organizations consistently report that fines, prosecution, and court involvement are not evidence-based attendance interventions. There is little empirical support that criminal penalties increase student attendance, particularly where absences are driven by poverty, disability-related needs, mental health concerns, or school climate factors. In contrast, early identification, school-based supports, family engagement, transportation assistance, and mental health services have been identified as more effective approaches. See, e.g. <https://www.the74million.org/article/families-face-steep-truancy-fines-contentious-court-battles-as-pandemic-creates-school-attendance-barriers/>

Accordingly, while concern about post-pandemic absenteeism is understandable, the available evidence does not support reinstating criminal prosecution of parents as an effective strategy for improving attendance. HB 218 would reintroduce punitive enforcement without demonstrated evidence that such measures improve student outcomes.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

Analyst is unaware whether this legislation is germane under Art. IV, Section 5. It is not a budget bill and analyst is unaware that it has been drawn pursuant to a special message of the Governor.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS