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FISCAL IMPACT REPORT

BILL NUMBER: House Bill 182

SHORT TITLE: Violation of Curfew as Delinquent Act

SPONSOR: Zamora

LAST ORIGINAL
UPDATE: _____ **DATE:** 2/13/2026 **ANALYST:** Ceballes/Malone

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
CYFD Juvenile Justice Services		\$1,500.0- \$3,000.0	\$1,500.0- \$3,000.0	\$3,000.0- \$6,000.0	Recurring	General fund

Parentheses () indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Conflicts with House Bills 5, 125, and 339 and Senate Bill 165

Sources of Information

LFC Files
Office of Juvenile Justice and Delinquency Prevention

Agency or Agencies Providing Analysis
Administrative Office of the District Attorneys
New Mexico Sentencing Commission
Department of Public Safety
Law Office of the Public Defender
Children, Youth and Families Department

SUMMARY

Synopsis of House Bill 182

House Bill 182 (HB182) amends the definitions section of the Delinquency Act, Section 32A-2-3 NMSA 1978, to classify a violation of a local curfew ordinance as a delinquent act.

The bill reorganizes the definition of a “delinquent act” in Section 32A-2-3(A) by consolidating existing subsections (A)(1) through (8) and redesignating them as subsections (A)(1) and (2).

Section 32A-2-3(A)(2)(a) restructures existing language addressing a juvenile’s attempt to purchase, receive, or possess alcohol without making substantive changes.

Section 32A-2-3(A)(2)(b) adds a new substantive provision that defines the violation of a curfew ordinance adopted by a county or municipal governing body as a delinquent act.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026.

FISCAL IMPLICATIONS

The codification of additional “delinquent acts” will have an incidental fiscal impact on the state if additional resources are required by the juvenile justice system to handle additional referral to the Children, Youth and Families Department (CYFD). A 2025 LFC policy spotlight on juvenile justice estimated the per-referral, per-year cost of field supervision for justice-involved youth to be about \$15 thousand annually. Assuming the classification of curfew violations results in an additional 100-200 juveniles subject to field supervision, the state could experience annual cost increases of \$1.5 million to \$3 million.

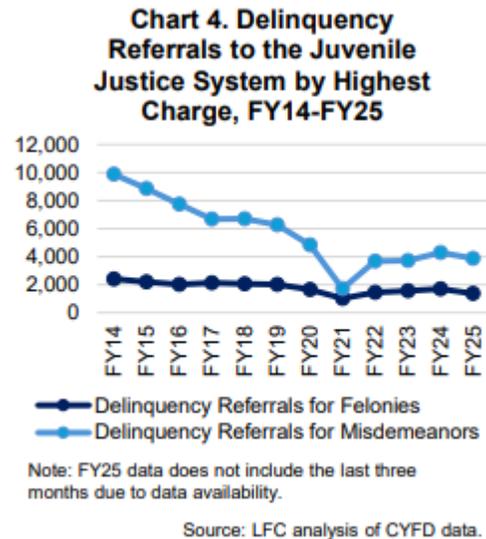
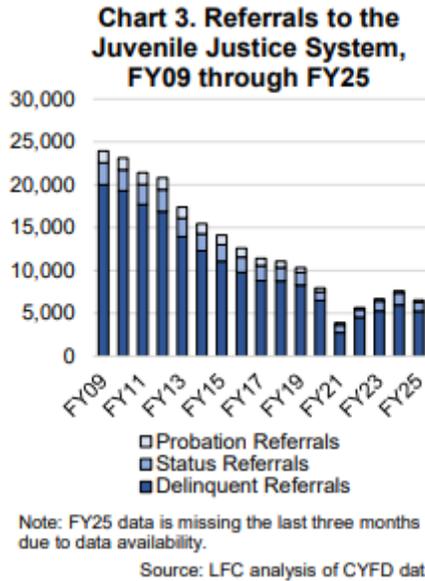
Additionally, there are likely to be costs associated with the enforcement of the new delinquent act, including for police and the legal system. This analysis assumes those costs will be absorbed by existing resources.

SIGNIFICANT ISSUES

In 2006, New Mexico reached a settlement agreement aimed at improving juvenile justice in New Mexico. Subsequently, New Mexico implemented two sets of evidence-based juvenile justice reforms in the early- and mid-2000s: diverting more low-risk youth away from the justice system and making CYFD facilities for high-risk youth more rehabilitative. Referrals of youth to the juvenile justice system steadily decreased over time after these reforms, reached a low point in 2021 during the Covid-19 pandemic, and have recently increased since the pandemic low point.

Between FY08 and FY23, referrals to Juvenile Justice Services at CYFD, almost all from law enforcement because of a violation of the Delinquency Act, declined from nearly 24 thousand in FY08 to a low of less than 5,000 during the pandemic in FY21. A 2023 LFC juvenile justice progress report attributed this decline to a variety of factors, including a drop in the state’s youth population and the state’s reforms in juvenile justice. In FY22, referrals to Juvenile Justice Services began to increase.

In FY24, a total of 7,634 juveniles were referred to Juvenile Justice Services (JJS). Once referred to JJS, the case may either be handled informally (roughly 57 percent of cases in FY24) or formally through the filing of a petition in court (roughly 43 percent of cases in FY24). In FY23, the five most common offenses for delinquent referrals were battery, battery against a household member, possession of cannabis products, public fighting, and resisting or evading an officer.



HB182 is expected to increase referrals to the juvenile justice system. Notably, most reductions in referrals since prior reforms were implemented have occurred among misdemeanor offenses, and HB182 would likely increase those referrals.

Curfew Violations as a Delinquent Act

The New Mexico Supreme Court addressed curfew ordinances in 1999. In *ACLU v. Albuquerque*, 1999-NMSC-044, 128 N.M. 315, the New Mexico Supreme Court held that the Children’s Code preempted municipalities from enacting curfew ordinances which criminalizes behavior by children which is not unlawful if committed by adults.

While the amendment in HB182 may cure the state-law preemption problem that was addressed by *ACLU v. Albuquerque*, it does so by adding local curfew violations to defined “delinquent acts” in the Children’s Code. This classification raises numerous constitutional vulnerabilities and enforcement ambiguities. Without clearer safeguards and standards, the bill risks increased litigation and inconsistent application.

The Law Office of the Public Defender (LOPD) notes that redefining curfew violations as delinquent acts could expose local curfew ordinances and their enforcement to substantial constitutional challenges, including potential violations of free speech, religion, assembly, search and seizure protections, parental and privacy rights, equal protection, and the right to travel under both the United States and New Mexico Constitutions.

The New Mexico Sentencing Commission (NMSC) observes that in *ACLU v. Albuquerque*, the Court opined in dicta that curfew violations may be more like truancy or other less-serious violations, rather than delinquent acts:

The Delinquency Act includes the serious conduct of children which is criminal in nature for all citizens, while other sections of the Children's Code, such as the Families in Need of Court-Ordered Services article, NMSA 1978, §§ 32A-3B-1 to 22 (1993, as amended through 1995), address behavior which, while not criminal, is not in the best interests of

the child, such as truancy and running away from home. . . . Certainly, had the City not created a criminal offense with the Curfew, restriction of night-time activities of children would seem more like truancy and running away than delinquent behavior.” *American Civil Liberties Union v. Albuquerque*, 1999-NMSC-044, ¶ 21.

The Department of Public Safety (DPS) also flags vagueness risk, observing that 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.

The general concept behind youth curfews is that keeping youths at home during late night and early morning hours limits their opportunities to commit or become victims of crime, thus enhancing public safety. However, a 2016 meta-analysis of juvenile curfew laws found that overall curfews did not have a statistically significant effect on criminal behavior by youth during the effective hours of the curfew.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Proposed amendments in HB182 conflict with the amendments contained in Senate Bill 125 and House Bills 5, 125, and 339. All bills amend NMSA 1978, Section 32A-2-3, the definitions section of the Children’s Code, but do so in different ways.

OTHER SUBSTANTIVE ISSUES

HB182 amends the definitions section of the Children’s Code by reorganizing the definition of “delinquent act” in Subsection A; consolidating existing subsections (A)(1) through (8) into redesignated subsections (A)(1) and (2); restructuring existing language in Section 32A-2-3(A)(2)(a) related to a juvenile’s attempt to purchase, receive, or possess alcohol; and adding a new substantive provision in Section 32A-2-3(A)(2)(b) that defines a violation of a curfew ordinance adopted by a county or municipal governing body as a delinquent act.

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