

<b>LFC Requester:</b>	<b>Scott Sanchez</b>
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**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:**

**AgencyAnalysis.nmlegis.gov**

*{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** January 25, 2024

**Bill No:** SB 178

**Sponsor:** Ivey-Soto  
**Short Title:** Sealing Records & Background Checks

**Agency Name and Code**    NM Sentencing Commission (354)  
**Number:** \_\_\_\_\_  
**Person Writing**    Douglas Carver  
**Phone:** 505-239-8362    **Email** dhmcarver@unm.edu

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(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:

SB 178 amends a section of the Delinquency Act, Section 32A-2-26, concerning the sealing of records.

The bill makes an exception to the provisions in Subsection C of Section 32A-2-26, which mandate that upon a record being sealed, “the proceedings in the case shall be treated as if they never occurred and all index references shall be deleted. The court, law enforcement officers and departments and agencies shall reply, and the person may reply, to an inquiry that no record exists with respect to the person.” Under SB 178, those provisions “shall not apply to records involving the unlawful use or possession of a firearm when the inquiry is made pursuant to a federal instant background check.”

**FISCAL IMPLICATIONS**

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

**SIGNIFICANT ISSUES**

SB 178 amends a section of the Delinquency Act, Section 32A-2-26, which is concerned with the sealing of records. There is another section of the Delinquency Act, however, Section 32A-2-32, that covers the confidentiality of records concerning juveniles involved in the criminal justice system. Section 32A-2-32 lists a number of entities to which juvenile records may be disclosed. To accomplish the purposes of SB 178, this section may need to be amended as well.

A Federal law passed in 2022, the Bipartisan Safer Communities Act (P.L. 117-159) “addresses juvenile records by amending:

- a firearms transfer prohibition to include persons who have previously incurred potentially disqualifying records as a juvenile (18 U.S.C. §922(d)); and
- background check procedures to screen persons 18 to 21 years of age for disqualifying

juvenile justice or mental health records and, if necessary, allow authorities to take up to 10 business days to make such determinations (18 U.S.C. §922(t)).”

SB 178 would align with the purposes of that part of the Bipartisan Safer Communities Act. (See the discussion in Krouse, “Gun Control: Juvenile Record Checks for 18- to 21-Year-Olds”, Congressional Research Service (June 2022), available at: <https://crsreports.congress.gov/product/pdf/IF/IF12154/2>).

According to the National Conference of State Legislatures, 24 states have some kind of automatic sealing or expungement of juvenile records on their statutes (see National Conference of State Legislatures, “Automatic Expungement of Juvenile Records” (updated Jan. 2024), available at: <https://www.ncsl.org/civil-and-criminal-justice/automatic-expungement-of-juvenile-records>).

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

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

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

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

## **AMENDMENTS**