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FISCAL IMPACT REPORT

SPONSOR	<u>Duhigg/Berghmans</u>	LAST UPDATED	<u>2/18/2025</u>
	Criminal Offender Employment	ORIGINAL DATE	<u>2/18/2025</u>
SHORT TITLE	<u>Exemptions</u>	BILL	
		NUMBER	<u>Senate Bill 66/ec</u>
		ANALYST	<u>Hanika-Ortiz</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DWS		No fiscal impact	No fiscal impact			
Health and Childhood Agencies		\$30.0 to \$50.0	No fiscal impact		Nonrecurring	General Fund

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

Sources of Information

LFC Files

Agency Analysis Received From

Early Childhood Education and Care Department (ECECD)
 Health Care Authority (HCA)
 Workforce Solutions Department (WSD)
 Children, Youth & Families Department (CYFD)

SUMMARY

Synopsis of Senate Bill 66

Senate Bill 66 (SB66) amends the Criminal Offender Employment Act (COEA) at Section 28-2-5 NMSA 1978 to exempt certain agencies: (1) Early Childhood Education and Care Department (ECECD), (2) Health Care Authority (HCA), (3) Children, Youth and Families Department (CYFD), and (4) the Public Education Department (PED). Section 1(A) specifically covers applicants and licensees for employment with childcare facilities; for caregivers in homes and healthcare facilities; for all positions at CYFD; and for licensed positions in public schools.

Agencies would promulgate their own rules for considering criminal history when determining eligibility for employment. The bill allows agencies to adopt COEA policies, at their discretion.

This bill contains an emergency clause and would become effective immediately on signature by the governor.

FISCAL IMPLICATIONS

The Workforce Solutions Department (WSD) reports no fiscal impact because COEA complaints under the Human Rights Act are minimal.

Agencies will incur costs related to establishing separate criteria for determining the offenses that make one ineligible for employment. LFC staff assumes a nominal cost for agencies by assuming they will combine resources when promulgating any new rules for criminal history screening.

SIGNIFICANT ISSUES

SB66 expands exemptions from COEA and allows agencies to set additional disqualifying criteria when processing background checks for employment with children and vulnerable adults.

The COEA regulates how public entities consider past criminal convictions in employment and licensing decisions. Under this law, convictions cannot automatically bar an applicant from public employment or a professional license. A conviction may only be considered if it directly relates.

The bill would allow agencies that work with children and vulnerable adults to exempt themselves from the COEA. The only other exemption currently in this law is for law enforcement agencies.

The COEA specifically provides that the following criminal records shall not be used, distributed, or disseminated in connection with an application for any public employment or license: (1) records of arrest not followed by conviction, (2) convictions sealed, dismissed, expunged or pardoned, (3) juvenile adjudications, or (4) convictions for a crime that is not relevant to the position sought.

Legislation passed during the 2021 special legislative session (Chapter 3) removed misdemeanor convictions involving moral turpitude and that relate to the job from permissible causes for denying public employment under COEA and removed an agency's authority to deny public employment or a professional license for felony and misdemeanor convictions that do not relate to the job. Further, completion of probation or parole supervision, or three years after discharge or release from prison without any subsequent conviction, would create a presumption of sufficient rehabilitation.

WSD administers the New Mexico Human Rights Act, the agent for COEA enforcement. Although certain felony convictions can automatically disqualify an applicant or licensee; they can always seek relief through expungement, clemency, or appeals under the Human Rights Act.

ADMINISTRATIVE IMPLICATIONS

Agencies would promulgate rules for which offenses make one ineligible for employment. WSD suggested this could lead to inconsistencies across agencies and confusion for job applicants.