

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

This bill amends Section 32A-2-3 entitled “Definitions” in the Children’s Code.

Subsection A – which defines “delinquent act” – is amended to include in subsection 2 both the crimes of (a) “attempting to buy, receiving, possessing or being served any alcoholic liquor or being present in a licensed liquor establishment ...” (which is already included in the statute) and to add this new material as (b):

Buying, attempting to buy, receiving or possessing cannabis pursuant to Section 26-2C-30 NMSA 1978 [unlawful possession of cannabis; penalties]. Being present in a licensed retail cannabis establishment, except in the presence of the child’s parent, guardian, custodian or adult spouse, buying, attempting to buy, receiving, possessing or being served a cannabis product, smoking a cannabis product in a public place or privately owned property or producing cannabis; provided that a child who is in possession of or is using cannabis pursuant to the Lynn and Erin Compassionate Use Act [Chapter 26, Article 2B NMSA 1978] is not a delinquent child[.]

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.

Inclusion of the cannabis provision as a delinquent act could increase filings against delinquent children and thereby increase the workload of district attorneys’ offices, requiring more funds for staffing, training, and or IT.

SIGNIFICANT ISSUES

None noted.

Section 26-2C-30 provides that “a person under twenty-one years of age shall not possess cannabis products. A person who violates this subsection is guilty of a civil violation and shall be subject to”

- (1) attendance at a four-hour evidence-based drug education and legal rights program at no cost to the person; or
- (2) four hours of community service.

The section further provides that a person 21 years of age or older shall not possess certain amounts of cannabis, with penalties ranging from a misdemeanor to a fourth-degree felony, depending on the amount.

The Lynn and Erin Compassionate Use Act's purpose is "to allow the beneficial use of medical cannabis in a regulated system for alleviating symptoms caused by debilitating medical conditions and their medical treatments." NMSA 1978, § 26-2B-2 (2007).

PERFORMANCE IMPLICATIONS

Increased prosecutions for delinquent acts involving cannabis.

ADMINISTRATIVE IMPLICATIONS

n/a

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 134 – "Delinquency Act Changes" – makes broad changes to the delinquency act and its jurisdiction.

TECHNICAL ISSUES

n/a

OTHER SUBSTANTIVE ISSUES

n/a

ALTERNATIVES

n/a

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

n/a