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FISCAL IMPACT REPORT

SPONSOR	Sens. Lopez, Pope, Sedillo Lopez and Pinto/Rep. Roybal Caballero	LAST UPDATED	
		ORIGINAL DATE	2/14/2025
SHORT TITLE	Strip Searches & Cameras	BILL NUMBER	Senate Bill 322
		ANALYST	Dinces

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
CYFD	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal		Recurring	General Fund

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

Sources of Information

LFC Files

Agency Analysis Received From
 Administrative Office of the Courts (AOC)
 Administrative Office of the District Attorneys (AODA)
 New Mexico Attorney General (NMAG)
 Children, Youth, and Families Department (CYFD)

Agency Analysis was Solicited but Not Received From
 Law Office of the Public Defender (LOPD)
 New Mexico Municipal League (NMML)
 Council of State Governments

SUMMARY

Synopsis of Senate Bill 322

Senate Bill 322 (SB322) amends 32A-2-4 that pertains to strip or body cavity searches in juvenile detention facilities. The bill states that strip and body cavity searches can only be conducted with probable cause from a facility superintendent. Searches must be the least invasive means possible and require documentation, including the name of the child, probable cause, steps taken to retrieve contraband, date and time, location and personnel involved, and result of the search. An incident report must be completed for each search and submitted to the superintendent by the next business day. No camera or visual recording devices are allowed in shower and toilet areas of detention facilities.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

This bill changes current practices regarding strip and body cavity searches in juvenile detention facilities. These changes may increase workload because the workers at the detention facility would need to complete an incident report after any strip or cavity search. Beyond the incident report, the workers may also need to be trained in the new policy. However, these costs are likely minimal. Juvenile Justice Services at the Children, Youth and Families Department (CYFD) has full-time staff that certify detention homes, and CYFD can ensure this measure becomes part of the detention standards certification.

SIGNIFICANT ISSUES

Nationally, there is a movement to reduce strip and body cavity searches of children. The American Bar Association and other nation institutes state that strip searches can cause trauma to children.^{1,2} While there may be a need to search a juvenile for contraband, particularly in a detention facility, current best practice would require using the least invasive method to perform such a search.

According to the Administrative Office of the District Attorneys:

There are no remedies provided in the bill if the detention center does not follow these procedures.

The New Mexico Supreme Court had found that “reasonable suspicion” is needed to strip search a student at a school. See *State v. Gage* 149 N.M. 14. A probable cause standard for detention center is not consistent with current New Mexico law. In a detention center, there are very limited rights to privacy. A detention center is inherently more dangerous than a school. However, SB322 essentially states that a search warrant standard is needed to search a juvenile in a detention center. In a search warrant, there needs to be probable cause, who executes the search warrant and what is found after the search warrant. This is unreasonable standard to run a detention center.

CYFD states:

This function added to the Juvenile Justice staff person would become another of the many standards required for a Detention Facility to become certified. It should be noted the Juvenile Justice Correctional Facilities have very similar policies currently in place in regard to searches.

ADMINISTRATIVE IMPLICATIONS

The Detention Standards would have to be updated by adding this requirement.

¹ <https://www.americanbar.org/groups/crsj/resources/human-rights/archive/strip-searching-children-state-imposed-trauma/>

² <https://jlc.org/resources/addressing-trauma-eliminating-strip-searches>

TECHNICAL ISSUES

The New Mexico Attorney General points out:

The language of Section 1(H), in stating that a search “...shall involve the least invasive means necessary...”, does not prevent more invasive means from being used, as it does not include a limiting term such as “only”, etc.

SD/rl/hg/sgs