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## FISCAL IMPACT REPORT

SPONSOR Foley DATE TYPED 2/01/05 HB 217

SHORT TITLE Magistrate Jurisdiction Over Traffic Codes SB \_\_\_\_\_

ANALYST McSherry

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			Minimal	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files  
 Children Youth and Families Department (CYFD)  
 Administrative Office of the Courts (AOC)  
 Corrections Department (CD)

### SUMMARY

#### Synopsis of Bill

House Bill 217 amends the delinquency section of the New Mexico Children’s Code, NMSA 32A-2-1 by adding language which would make misdemeanor violations of municipal traffic codes and the Motor Vehicle Code committed by minors, with no more than one prior violation, come under the jurisdiction of a magistrate court.

#### Significant Issues

According to the Administrative Office of the Courts (AOC), the Children’s Code as it is enacted now, specifies certain juvenile traffic offenses will remain in the jurisdiction of the district court, while Section 32A-2-6 provides that for all other juvenile traffic offenses, original jurisdiction is in the courts of limited jurisdiction. Under this bill, any felony would remain in the original jurisdiction of the district court, but misdemeanors, including DWI misdemeanors, would be heard in the courts of limited jurisdiction. The bill maintains the current procedure that juveniles may only be incarcerated with permission of the district court. The AOC states that presumably this procedure would be routinely invoked if a juvenile was found to have committed the delinquent offense of DWI, because there are mandatory minimum sentences associated with DWI. The bill provides that the lower court shall send a record of all juvenile dispositions to the district court.

Magistrate Court judges, according to the Children Youth and Families Department, under the changes proposed by this bill, would not be able to incarcerate a youth for a misdemeanor violation of municipal traffic laws or the Motor Vehicle Code without first obtaining approval from the District Children's Court. If the Children's Court acquires jurisdiction over a youth who has committed a delinquent act other than a violation of municipal traffic laws or the Motor Vehicle Code, the Children's Court, not the Magistrate Court, is granted jurisdiction over all offenses arising from the same event.

The Children Youth and Families Department (CYFD) states that the delinquency provision of the Children's Code already provides a unified and comprehensive set of laws and regulations governing delinquent acts, including misdemeanor violations of municipal traffic laws and the Motor Vehicle Code. According to CYFD, the Children's Court Division of District Court has CYFD believes that bifurcating legal responsibility between Magistrate Court and the Children's Court Division of District Court will likely result in confusion, and may be administratively cumbersome.

### **PERFORMANCE IMPLICATIONS**

AOC cites that because this bill would shift cases from the district courts to the lower courts and add some additional procedures, court dockets may become further clogged.

### **FISCAL IMPLICATIONS**

Minimal changes in costs were reported by agencies.

### **TECHNICAL ISSUES**

The Corrections Department (CD) states that should House Bill 217 be enacted, District Court would be required to maintain a registry of any disposition reports received from a magistrate court. According to CD, if the children's court acquires jurisdiction over a child pursuant to the alleged commission of a delinquent act other than a misdemeanor violation of a municipal traffic code or the Motor Vehicle Code, it shall have jurisdiction over all offenses alleged to have been committed by the child arising out of the same occurrence. The Department asks: how will be traffic offense, if found guilty, be entered into the Motor Vehicle Records if the Children's Court is hearing the case?

CYFD points to Section 1, C, where the department cites that the meaning and scope of "other than" is ambiguous. The Department recommends that line 13 be amended to read: "...arising out of the same occurrence, including violations of municipal traffic code or Motor Vehicle Code."

### **OTHER SUBSTANTIVE ISSUES**

The delinquency act already provides a unified and comprehensive set of laws and regulations governing delinquent acts, including misdemeanor violations of traffic and motor vehicles laws.

### **ALTERNATIVES**

CYFD suggests that if the intent of House Bill 217 is to afford Magistrate Court judge's with the

ability to ensure minors charged with violations of municipal traffic laws and the Motor Vehicle Code appear in court in response to citations, and to ensure the ability to enforce sanctions, then a bill granting Magistrate Court judges the ability to issue warrants for some form of detention of minors who are not complying with police summonses or Magistrate Court orders may be appropriate as an alternative to amending the delinquency code as proposed.

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

The Children's Code as it currently exists will remain.

EM/yr