

Significant Issues

SB 320 addresses a concern that a significant number of children are failing to pay or are ignoring traffic citations issued by the municipal, magistrate and metropolitan courts.

There is no legal impediment to enactment. Legal responsibility for a minor's operation of a vehicle is imputed to the parent or legal guardian under the laws providing for the licensure of minor drivers. NMSA Sec 66-5-1 et seq.

The language is unclear about whose vehicles can be immobilized. As drafted, the court could order that any vehicle the child was driving be immobilized, even if it belonged to someone who has no legal responsibility for the child or to someone who has not given the child permission to use the vehicle. The bill, CYFD observes, may be subject to legal challenge unless there is language that limits immobilizing a vehicle where the adult owner has permitted the child to use the vehicle or is legally responsible for the child user.

The ownership of vehicles driven by juveniles is generally parental. Court ordered immobilization impact parents and other parties driving a family vehicle. Immobilization of vehicle, CYFD notes, could unduly penalize the entire family.

Under current law municipal, magistrate, and metropolitan courts lack the authority to immobilize a vehicle after issuance of a bench warrant to a child for traffic violations and failures to appear. The issue raised by AG is whether the named courts should have the same enforcement authority over children that drive and violate traffic laws as the courts presently have over adult drivers who violate traffic laws.

FISCAL IMPLICATIONS

SB 320 may result in an increase of fines collected for traffic violations committed by children.

ADMINISTRATIVE IMPLICATIONS

With the caveat that immobilization will occur unless it poses an imminent danger to the health, safety or employment of the child's immediate family or the family of the owner of the motor vehicle, the court can expect to be challenges to the immobilization.

TECHNICAL ISSUES

SB 320 provides for immobilization, unless it poses an imminent danger to the health, safety or employment of the child's immediate family or the family of the owner of the vehicle. The AOC recognizes the Legislature's prerogative to enact this type of legislation, but would appreciate further guidance in the bill as to who is to make the decision that an imminent danger exists: the courts, or law enforcement.

The PDD is concerned that the proposed legislation recognizes and does not seek to amend the current language of 32A-2-29, which clearly states that the Children's Court retains exclusive jurisdiction over a Child who commits violations under 32A-2-3(A)(1). Also, Section 32A-2-3(A)(1) provides that the Children's Court has exclusive jurisdiction over the delinquent acts of municipal traffic code violations and Motor Vehicle Code violations. The amended language,

according to PDD seeks to divest the Children's Court of its jurisdiction over the Child when he or she fails to pay a fine to municipal, magistrate or metropolitan court or fails to appear in one of those courts to answer allegations of municipal and/or Motor Vehicle Code violations.

The title refers to a bench warrant "issued *to* a child..." (italics added). It may be more appropriate to refer to a bench warrant issued "for" a child. Section 1.A. refers to a bench warrant issued *for* the child. The language in the bill and the title should be consistent.

BD/lg